AGRICULTURAL ADJUSTMENT ACT OF 1938

[As Amended Through P.L. 108–7, February 20, 2003]

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EXPLANATORY NOTE

As enacted on February 16, 1938, this statute contained amendments which strengthened and broadened the Soil Conservation and Domestic Allotment Act, provided for assistance in the marketing of agricultural commodities for domestic consumption and export, provided for price support loans on wheat, Notwithstanding any other provision of law, Notwithstanding any other provision of law, corn, cotton and other agricultural commodities, authorized parity payments for corn, wheat, tobacco, cotton and rice, when funds were appropriated therefor, provided for farm marketing quotas for tobacco, corn, wheat, cotton and rice, and established the Federal Crop Insurance Corporation. The Act has been amended many times since its enactment. In 1941, marketing quota and price support provisions for peanuts were added to the Act and the marketing quota provisions for corn and wheat were changed in several important respects. In 1949, substantial changes were made in the marketing quota provisions for cotton and rice, and the price support provisions were repealed with the enactment of the Agricultural Act of 1949. The Agricultural Act of 1954 repealed the authority for marketing quotas for corn, but authority for corn acreage allotments was retained. Acreage allotments and a commercial corn-producing area were not established for the 1959 and subsequent crops of corn since a majority of the corn producers voting in the referendum held on November 25, 1958, favored a price support program without acreage allotments, as provided in section 104(b) of the Agricultural Act of 1949, as added by the Agricultural Act of 1958.

In 1961, P.L. 87–128, 75 Stat. 2 August 8, 1961, made numerous changes in the wheat provisions of the Act. P.L. 87–703, 76 Stat. 605, September 27, 1962, made further amendments in the wheat provisions of the Act effective with the 1964 and subsequent crops of wheat. A land use and a wheat marketing allocation program were also enacted by this law. P.L. 88–297, 78 Stat. 178, April 14, 1964, provided that a national marketing quota would not be in effect for the 1965 crop of wheat.

In 1965, the Congress extended through the 1969 crop of wheat, the wheat marketing allocation program and the land use program without marketing quotas. (P.L. 89–321, 79 Stat. 1187, November 3, 1965.) The final year of the period was extended from 1969 to 1970 by P.L. 90–559, 82 Stat. 996, October 11, 1968.

The Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1358, November 30, 1970, suspended wheat and cotton marketing quotas and acreage allotments for 1971, 1972, and 1973.

It established voluntary set-aside programs for wheat, upland cotton, and feed grains under which, as a condition of eligibility for loans, payments, and certificates (in the case of wheat), producers must set aside and devote to approved conservation uses a specified acreage of cropland. Provisions governing the wheat set-aside program appear in amendments to sections 379b and 379c of the Agricultural Adjustment Act of 1938, as amended. Provisions governing the feed grain and cotton set-aside programs appear in amendments to the Agricultural Act of 1949, except that this Act contains provisions for determining cotton farm base acreage allotments which are used to determine payments under the upland cotton program.

The constitutional validity of the marketing quota provisions has been upheld as to tobacco in the case of *Mulford* v. *Smith* (307 U.S. 38), as to cotton in the case of *Trophy* v. *LaSara Farmers Gin Co.* (113 F.2d 350), as to wheat in the case of *Wickard* v. *Filburn* (317 U.S. 111), and as to rice in the case of *Weir* v. *United States* (310 F.2d 149).

The Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 221, August 10, 1973, provided generally for a four-year extension of the programs authorized by the Agricultural Act of 1970 and established a "target price" concept for wheat, feed grains, and cotton whereby payments are made to participating producers only when the higher of the market price or loan level is lower than the established target price. The Act also contains provisions for payments if, because of a natural disaster, producers are prevented from planting or obtain an abnormally low yield. The Act also reduced the payment limitation under such programs to $20,000 and terminated the wheat marketing certificate program for producers, processors and exporters. A new Title X, Rural Environmental Conservation Program, provided authority for the Secretary to cost share with eligible owners and operators of land under long-term agreements for the carrying out of certain conservation practices. In addition, Title X provides the authority for a Forestry Incentives Program.

The Rice Production Act of 1975 suspended marketing quota provisions for the 1976–77 crops of rice.

The Food and Agriculture Act of 1977 suspended wheat, upland cotton, rice, and peanut marketing quota provisions for the 1978–81 crops. Poundage quotas were provided for the 1978–81 crops of peanuts, with provisions for farm poundage quotas, "quota" and "additional" peanuts, marketing of peanuts by producers, and peanut handlers.

The Agriculture and Food Act of 1981 suspended wheat, upland cotton, and peanut marketing quota provisions for the 1982–85 crops. It also repealed the acreage allotment and marketing quota provisions for rice and eliminated the traditional peanut acreage allotment system.

The No Net Cost Tobacco Program Act of 1981 substantially revised the provisions of the 1938 Act relating to tobacco. Among other things, it (1) makes the marketing of tobacco which is not eligible for price support because a producer has not contributed to the applicable No Net Cost Tobacco Fund or Account established in accordance with section 106A of the Agricultural Act of 1949 subject to the same penalties which are imposed for the marketing of tobacco which is in excess of a farm's quota; (2) provides for penalties for the marketing of floor sweepings in excess of allowable limits; (3) requires the sale of Flue-cured and Burley tobacco allotments and quotas by entities not significantly involved in the management and use of land for agriculture purposes; (4) requires the adjustment of the national average goal for Flue-cured tobacco in 1983 and at five year intervals; and (5) requires that producers of dark air-cured and fire-cured tobacco be given in 1983 (and in subsequent years if the Secretary determines that there is sufficient interest) the opportunity in a referendum to choose whether they favor or oppose the establishment of farm marketing quotas on a poundage instead of an acreage allotment basis.

The Dairy and Tobacco Adjustment Act of 1983 further revised the provisions of the 1938 Act which relate to the tobacco program. These amendments included revisions with respect to: (1) entities which are required to sell Burley tobacco quotas; (2) the reserve established for new growers of Flue-cured tobacco; (3) the amount of Burley quota which could be leased and transferred to a farm; and (4) restrictions on the lease and transfer of Flue-cured tobacco allotments and quotas.

The Extra Long Staple Cotton Act of 1983 repealed the authority for marketing quotas and acreage allotments with respect to the 1984 and subsequent crops of extra long staple cotton.

AGRICULTURAL ADJUSTMENT ACT OF 1938 [1–1]

AN ACT

To provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 1281] That this Act may be cited as the "Agricultural Adjustment Act of 1938".

DECLARATION OF POLICY

SEC. 2. [7 U.S.C. 1282] It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

TITLE I—AMENDMENTS TO SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

[This title contains amendments to the Soil Conservation and Domestic Allotment Act, as amended. Insofar as now applicable, these amendments are incorporated in the Soil Conservation Laws Vol.]

[1–1] P.L. 430, 75th Cong., 52 Stat. 31, Feb. 16, 1938.

Sec. 515(h)(3)(B)(v) of the Federal Crop Insurance Act (7 U.S.C. 1515(h)(3)(B)(v)), permits the Secretary to disqualify a producer from receiving any benefit under this Act for a period of up to 5 years if the producer violates paragraph (1) or (2) of section 515(h) of that Act.

TITLE II—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

ADJUSTMENTS IN FREIGHT RATES FOR FARM PRODUCTS

SEC. 201.[201–1] [7 U.S.C. 1291] (a) The Secretary of Agriculture is authorized to make complaint to the Surface Transportation Board[201–2] with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Board. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Board shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

(b) If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Board shall make the Secretary a party to the proceeding. In such case the Secretary shall have the rights of a party before the Board and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Board's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

(c) For the purposes of this section, the Surface Transportation Board is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

(d) The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products.

NEW USES AND NEW MARKETS FOR FARM COMMODITIES

SEC. 202. [7 U.S.C. 1292] (a) The Secretary is hereby authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) For the purposes of subsection (a), the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories. Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) In carrying out the purposes of subsection (a), the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, coun-

[201–1] Sec. 113(e)(8)(D) of title 40, United States Code, provides that nothing in subtitle I of that title (relating to Federal property and administrative services) impairs or affects the authority of the Secretary under this sec.

[201–2] Sec. 311 of the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 948, Dec. 29, 1995, replaced all references in this section to "Interstate Commerce Commission" and "Commission" with "Surface Transportation Board" and "Board", respectively.

ties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) To carry out the purposes of subsection (a), the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal year beginning July 1, 1938, a sum not to exceed $4,000,000 of the funds appropriated pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, for such fiscal year. The Secretary shall allocate one-fourth of such sum annually to each of the four laboratories established pursuant to this section.

[(e)[202–1] * * *]

(f) There is hereby allocated to the Secretary of Commerce for each fiscal year, beginning with the fiscal year beginning July 1, 1938, out of funds appropriated for such fiscal year pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, the sum of $1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, $100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

[202–1] Sec. 202(e) was repealed by P.L. 706, 83d Cong., 68 Stat. 966, Aug. 30, 1954.

TITLE III—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

SUBTITLE A—DEFINITIONS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

DEFINITIONS

SEC. 301.[301–1] [7 U.S.C. 1301] (a) GENERAL DEFINITIONS.—For the purposes of this title and the declaration of policy—

(1)(A) The "parity price" for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The "adjusted base price" of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such time as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term "prices" shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The "parity index", as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E)[301–2] [* * *]

(F) Notwithstanding the provisions of subparagraphs (A) and (E), if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

[301–1] The method of computing parity prices was changed substantially by sec. 201 of the Agricultural Act of 1948, P.L. 80–897, 62 Stat. 1247, July 3, 1948.

[301–2] Subpara. (E) provides for computing transitional parity prices, which were last computed in 1955.

(G)[301–3] [* * *]

(2) "Parity", as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupations. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term "interstate and foreign commerce" means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any cultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term "United States" means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn.

[REFERENCES TO PARITY PRICES, ETC., IN OTHER LAWS AFTER JANUARY 1, 1950]

[SEC. 302(f) OF AGRICULTURAL ACT OF 1948.[301–4] [7 U.S.C. 1301a] All references in other laws to—

(1) parity,

(2) parity prices,

(3) prices comparable to parity prices, or

(4) prices to be determined in the same manner as provided by the Agricultural Adjustment Act of 1938 prior to its amendment by this Act for the determination of parity prices,

with respect to prices for agricultural commodities and products thereof, shall hereafter be deemed to refer to parity prices as determined in accordance with the provisions of sec. 301(a)(1) of the Agricultural Adjustment Act of 1938, as amended by this Act.]

[301–3] Subpara. (G) was applicable only to the six-year period beginning Jan. 1, 1950.
[301–4] P.L. 897, 80th Cong., 62 Stat. 1258, July 3, 1948.

[DEFINITIONS—CONTINUED]

[SEC. 301](b) DEFINITIONS APPLICABLE TO ONE OR MORE COMMODITIES.—For the purposes of this title—

(1)(A) "Actual production" as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) "Actual production" of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) "Bushel" means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" [301–5] of cotton for any marketing year shall be the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) "Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), which was produced in the United States prior to the beginning of the calendar year in which such marketing year begins, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

(D) "Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year

[301–5] As originally enacted, this term included domestically produced cotton on hand within or without the United States. A new definition, excluding American cotton on hand outside the United States, was enacted in sec. 201(c) of the Agricultural Act of 1948, 62 Stat. 1250. The definition was changed again by sec. 2(a) of Pub. L. 272, 81st Cong., approved Aug. 29, 1949, 63 Stat. 675, to read as shown in the text, so as to include all cotton on hand in the United States whether produced within or without the United States.

then current, and not including any wheat held by the Federal Crop Insurance Corporation under title V.[301–6]

(4)[301–7] [* * *]

(5)[301–8] [* * *]

(6)(A) "Market", in the case of corn, cotton, rice, tobacco, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any of such commodities as premium to the Federal Crop Insurance Corporation under Title V.[301–9]

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(C) "Market", in the case, of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(7) "Marketing year"[301–10] means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, September 1–August 31;[301–11]
Cotton, August 1–July 31;
Rice, August 1–July 31;
Tobacco (flue-cured), July 1–June 30;
Tobacco (other than flue-cured), October 1–September 30;
Wheat, June 1–May 31.[301–12]

(8)[301–13](A) "National average yield" as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding the year in which such national average yield is used in any computation authorized in this title, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B)[301–14] "Projected national yield" as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

[301–6] Title V of this Act is the Federal Crop Insurance Act.

[301–7] The definitions in subsecs. (4) and (5) relate to marketing quotas and acreage allotments for corn, which are no longer applicable.

[301–8] See footnote 301–7.

[301–9] See footnote 301–6.

[301–10] The marketing year for peanuts is defined as August 1–July 31 by sec. 359(a).

[301–11] "September 1–August 31" substituted for "October 1–September 30" by sec. 1020 of the Food Security Act of 1985, P.L. 99–198, 99 Stat. 1459, Dec. 23, 1985.

[301–12] P.L. 94–61, 89 Stat. 302, July 25, 1975, amended the marketing year for wheat by deleting "July 1–June 30" and inserting "June 1–May 31", effective June 1, 1975.

[301–13] Para. (8) was amended by P.L. 89–321, 79 Stat. 1204, Nov. 3, 1965, which inserted "(A)" after (8) and added a new subpara. (B) thereto.

[301–14] See footnote 301–13.

(9)[301–15] "Normal production" as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. "Normal production" as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)[301–16](A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) "Normal supply" in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

(C) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) "Normal year's domestic consumption", in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was consumed[301–17] in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) "Normal year's domestic consumption", in the case of cotton and tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) "Normal year's domestic consumption", in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

[301–15] Para. (9) was amended, effective with the crop planted for harvest in 1966, by P.L. 89–321, 79 Stat. 1205, Nov. 3, 1965, by striking out "cotton" and "wheat" and by adding the second sentence. As literally amended, part of the first sentence would have read "corn, rice, or means".

[301–16] See also sec. 1019 of the Food Security Act of 1985.

[301–17] The word "consumed" appears in the original legislation as "cosumed."

(12) "Normal year's exports" in the case of corn, cotton, rice, tobacco, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)[(A)[301–18] * * *]

(B)[301–19] "Normal yield" for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined.

(C) In applying subparagraph (A) or (B), if for any such year the data are not available, or there is no actual yield, an appraised yield for such year determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year. In applying such subparagraphs, if, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period or five-year period, as the case may be, is less than 75 per centum of the average (computed without regard to such year) such year shall be eliminated in calculating the normal yield per acre.

(D)[301–20] "Normal yield" for any county, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the county during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(E)[301–21] "Normal yield" for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations issued by the Secretary, taking into consideration abnor-

[301–18] Repealed by P.L. 87–703, 76 Stat. 625, Sept. 27, 1962.

[301–19] The words, "cotton or" appearing before the word "peanuts" were deleted by P.L. 88–297, 78 Stat. 177, Apr. 11, 1964.

[301–20] The words, "and wheat," "or wheat, as the case may be," and "in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat," were added by P.L. 87–703, 76 Stat. 625, Sept. 27, 1962.

[301–21] The words, "and wheat," "or wheat, as the case may be," and "in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat," were added by P.L. 87–703, 76 Stat. 625, Sept. 27, 1962.

mal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

(F) In applying subparagraphs (D) and (E), if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G)[301–22] "Normal yield" for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

[PROJECTED YIELDS]

[SEC. 708 of FOOD AND AGRICULTURE ACT OF 1965.[301–23] [7 U.S.C. 1306] Notwithstanding any other provision of law, in the determination of farm yields the Secretary may use projected yields in lieu of normal yields. In the determination of such yields the Secretary shall take into account the actual yield proved by the producer for the base period used in determining the projected yield,[301–24] and the projected yield shall not be less than such actual yield proved by the producer.]

[DEFINITIONS—CONTINUED]

[SEC. 301(b)(13)](H)[301–25] "Normal yield" for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

[301–22] The word "cotton" was deleted by P.L. 88–297, 78 Stat. 177, Apr. 11, 1964.

[301–23] P.L. 89–321, 79 Stat. 1211, Nov. 3, 1965.

[301–24] The parenthetical clause "(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary, shall take into account the actual yield proved by the producer in the other four years of such base period)" which was added after the words "projected yield" by sec. 1(12) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 229, Aug. 10, 1973, was effective only with respect to the 1974 through 1977 crops.

[301–25] Subparas. (H) and (I) were added by P.L. 88–297, 78 Stat. 177, Apr. 11, 1964.

(I)[301–26] "Normal yield" for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J)[301–27] "Projected county yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield for trends to yields and for any significant changes in production practices.

(K)[301–28] "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the farm during each of the three calendar years[301–29] immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (E) of this paragraph.

(L)[301–30] "Projected national, State, and county yields" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yield, and for any significant changes in production practices.

(M)[301–31] "Projected farm yield" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14)(A) "Reserve supply level", in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and ex-

[301–26] See footnote 301–25.
[301–27] Subparas. (J) and (K) were added by P.L. 89–321, 79 Stat. 1205, Nov. 3, 1965.
[301–28] See footnote 301–27.
[301–29] The parenthetical clause "(five calendar years in the case of wheat)" which was added after the words "calendar years" by sec. 1(12) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 229, Aug. 10, 1973, was effective only with respect to the 1974 through 1977 crops.
[301–30] Subparas. (L) and (M) were added by P.L. 89–321, 79 Stat. 1197, Nov. 3, 1965.
[301–31] See footnote 301–30.

ports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(B) "Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(C)[301–32] "Reserve stock level", in the case of Flue-cured tobacco, shall be the greater of—

(i) 60,000,000[301–33] pounds (farm sales weight); or

(ii) 10 percent[301–34] of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(D)[301–35] "Reserve stock level", in the case of Burley tobacco, shall be the greater of—

(i) 50,000,000 pounds (farm sales weight); or

(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

(15)[301–36] "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;

Fire-cured tobacco, comprising types 21, 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;

Cigar-filler tobacco, comprising type 41.

The provisions of this title shall apply to each of such kinds of tobacco severally: *Provided,*[301–37] That any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of this Act if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further,* That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a "kind of tobacco" for the purposes of all of the provisions of this title, except that for the purposes of section 312(c) of this title, types 21, 22, and 23,

[301–32] Subparas. (C) and (D) were added by sec. 1103 of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 85, Apr. 7, 1986.

[301–33] Sec. 1610(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 218, May 13, 2002, amended clause (i) by striking "100,000,000" and inserting "60,000,000".

[301–34] Sec. 1610(2) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 218, May 13, 2002, amended clause (ii) by striking "15 percent" and inserting "10 percent".

[301–35] See footnote 301–32.

[301–36] See sec. 4 of P.L. 89–12, 79 Stat. 72, Apr. 16, 1986.

[301–37] This proviso was enacted by P.L. 85–92, 71 Stat. 287, July 10, 1957.

fire-cured tobacco shall be treated as one "kind of tobacco": *And provided further,* [301–38] That for purposes of section 319 of this title, types 22 and 23, fire-cured tobacco shall be treated as one "kind of tobacco."

(16)(A) "Total supply" of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar-filler and cigar-binder tobacco.

(C) "Total supply" of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into United States during such marketing year.

(17) [301–39] "Domestic manufacturer of cigarettes" means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.

(c) The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act.

(d) In making any determination under this Act or under the Agricultural Act of 1949 with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596).

[LOANS ON AGRICULTURAL COMMODITIES]

[SEC. 302.[302–1] * * *]

[NORMAL SUPPLY]

[SEC. 1019 OF FOOD SECURITY ACT OF 1985.[302–2] [7 U.S.C. 1310a] Notwithstanding any other provision of law, if the Secretary

[301–38] This proviso was added by sec. 303(a) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 211, July 20, 1982.

[301–39] Para. (17) was added by sec. 1103 of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 86, Apr. 7, 1986.

[302–1] Sec. 302, which provided for loans by Commodity Credit Corporation, was repealed by P.L. 81–439, 63 Stat. 1057, Oct. 31, 1949.

[302–2] P.L. 99–198, 99 Stat. 1459, Dec. 23, 1985, originally enacted this provision for the 1986 through 1990 crops. The provision was extended to the 1995 crops by sec. 1142 of P.L. 101–624, 104 Stat. 3515, Nov. 28, 1990. A similar provision for the 1982 through 1986 crops was contained in P.L. 97–98. See p. 8–11 of Agriculture Handbook No. 476, revised Jan. 1985.

of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for the marketing year for any of the 1986 through 1995 crops of such commodity is not likely to be excessive and that program measures to reduce or control the planted acre-age of the crop are not necessary, such a decision shall constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination to the contrary shall be made by the Secretary with respect to such commodity for such marketing year.]

PARITY PAYMENTS

SEC. 303. [7 U.S.C. 1303] If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of corn, wheat, cotton, rice, or tobacco, on their normal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payment with respect to these commodities shall, unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

CONSUMER SAFEGUARDS

SEC. 304. [7 U.S.C. 1304] The powers conferred under this Act shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this Act it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

SUBTITLE B—MARKETING QUOTAS

PART I—MARKETING QUOTAS—TOBACCO [311–1]

LEGISLATIVE FINDINGS

SEC. 311. [7 U.S.C. 1311] (a) The marketing of tobacco constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point and stable conditions therein are necessary to the general welfare. Tobacco produced for market is sold on a Nationwide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

NATIONAL MARKETING QUOTA

SEC. 312. [312–1] [7 U.S.C. 1312] (a) The Secretary shall, not later than December 1 of any marketing year with respect to flue-cured tobacco, February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco, proclaim a national marketing quota for any kind

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311–1 Sec. 205 of division N of P.L. 108–7, 117 Stat. 11, Feb. 20, 2003, requires the Secretary, not later than June 1, 2003, to use funds of the Commodity Credit Corporation to make payments to eligible persons that own a farm for which a basic quota or allotment for eligible tobacco is established for the 2002 crop year under this part.

312–1 Sec. 1104(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 89, Apr. 7, 1986, substituted "February 1, of any marketing year with respect to Burley Tobacco and March 1 of any marketing year with respect to other kinds of tobacco" for "and February 1 of any marketing year with respect to other kinds of tobacco" in the first sentence.

of tobacco for each of the next three succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) that a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) that such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) that amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum held pursuant to subsection (c): *Provided,* That if such producers have disapproved national marketing quotas in referenda held in three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers in a referendum, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

(b)[312–2] The Secretary shall also determine and announce not later than the first day of December with respect to flue-cured tobacco, not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco, the amount of the national marketing quota proclaimed pursuant to subsection (a) which is in effect for the next marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

(c) Within thirty days after the proclamation of national marketing quotas under subsection (a), the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but

[312–2] Sec. 1104(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 89, Apr. 7, 1986, substituted ", not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco" for "and not later than the first day of February with respect to other kinds of tobacco.

such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota.

APPORTIONMENT OF NATIONAL MARKETING QUOTA

SEC. 313. [7 U.S.C. 1313] (a) The national marketing quota for tobacco established pursuant to the provisions of section 312, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar years immediately preceding the calendar year in which the quota is proclaimed (plus in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provision of this section and section 312, [* * *] such national marketing quota shall not be reduced below the 1940–941 national marketing quota by more than 10 per centum and the farm-acreage allotments (other than allotments established in each year under subsection (g) of this section for farms on which no tobacco was produced in the last five years) shall be determined by increasing or decreasing the farm-acreage allotments established in the last preceding year in which marketing quotas were in effect in the same ratio as such national marketing quota is increased or decreased above or below the last preceding national marketing quota: *Provided,* That in the case of flue-cured tobacco no allotment shall be decreased below the 1940 allotment if such allotment was two acres or less, and in the case of burley tobacco no allotment shall be decreased below the 1939 allotment if such allotment was one-half acre or less, or below the 1940 allotment if such allotment was over one-half acre and not over one acre: *And provided further,* That an additional acreage not in excess of 2 per centum of the total acreage allotted to all farms in each State in 1940 shall be allotted by the local committees, without regard to the ratio aforesaid, among farms in State in accordance with regulations prescribed by the Secretary so as to establish allotments which the committees find will be fair and equitable in relation to the past acreage of tobacco (harvested and diverted); land, labor, and equipment available for the production of tobacco; and crop-rotation practices: *And provided further,* That the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State acreage allotments.[313–1]

[BURLEY TOBACCO ACREAGE ALLOTMENTS]

[ACT OF JULY 12, 1952.[313–2] [7 U.S.C. 1315] * * * notwithstanding any other provision of law, effective for the 1956 and sub-

[313–1] The last sentence, except for the last proviso, was substituted for the original proviso by the Act of June 13, 1940, P.L. 76-628, 54 Stat. 392. The omitted language applied only to the 1941–1943 marketing years. The final proviso was added by the Act of Apr. 29, 1943, P.L. 78–43, 57 Stat. 69.

[313–2] P.L. 82–528, 66 Stat. 597, amended further by Pub. L. 84–21, 69 Stat. 24, Mar. 31, 1955.

sequent crops of burley tobacco, the farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this Act shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota.**]**

[APPORTIONMENT OF NATIONAL MARKETING QUOTA—CONTINUED]

[SEC. 313**]**(b) The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That, except for farms on which for the first time in five years tobacco is produced to be marketed in the marketing year for which the quota is effective, the marketing quota for any farm shall not be less than the smaller of either (1) three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds, in the case of other kinds of tobacco, or (2) the average tobacco production for the farm during the preceding three years, plus the average normal production of any tobacco acreage diverted under agricultural adjustment and conservation programs during such preceding three years.

(c) The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective and (2) for further increase of allotments to small farms pursuant to the proviso in subsection (b) of this section on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations.

(e) In case of flue-cured tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 4 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under the Agricul-

tural Adjustment Act of 1938 which the Secretary determines are inadequate in view of past production of tobacco, and for each year by a number of pounds sufficient to assure that any State receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the preceding five years of five hundred acres of such tobacco.

(f)[313–3] [* * *]

(g)[313–4] Notwithstanding any other provision of this section, the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection (b), using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketing of tobacco; and the Secretary on the basis of the factors set forth in subsection (c) and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last five years. Any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955, or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the percentage by which the normal yield of such allotments (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco: *Provided,* That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a). The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not furnished as required by the Secretary or if any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the

[313–3] Subsec. (f) was applicable only to the 1938 crop.
[313–4] Sec. 313(g) was amended by P.L. 90–106, 81 Stat. 275, Oct. 12, 1967.

farm required by regulations issued pursuant to this Act, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. If in any calendar year more than one crop of tobacco is grown from (1) the same tobacco plants or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco has been so grown and harvested.

(h)[313–5] [* * *]

(i)[313–6] Notwithstanding any other provision of this Act, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national marketing quota established for such kind of tobacco pursuant to section 312 of this Act. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments.

(j)[313–7] [* * *]

(j) [sic][313–8] The production of tobacco on a farm in 1955 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsections (b) and (g) hereof or section 317: *Provided, however,* That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsections (c) and (g) hereof or section 317, but such production shall not be deemed past tobacco experience for any producer on the farm.

PENALTIES

SEC. 314. [7 U.S.C. 1314] (a)[314–1] The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay

313–5 Sec. 313(h) was repealed by P.L. 85–835, 72 Stat. 988, Aug. 28, 1958.
313–6 See sec. 4 of P.L. 89–12, 79 Stat. 66, Apr. 16, 1965, on p. 9–23.
313–7 The original subsec. (j) was applicable only to the 1956, 1957, and 1958 crops.
313–8 Subsec. (j) to sec. 313 added P.L. 84–361, 69 Stat. 684, Aug. 11, 1955 probably should be subsec. (k). P.L. 89–12, 79 Stat. 66, Apr. 16, 1965, added the words, "or section 317" after the words, "and (g) hereof" wherever they appear.
314–1 The first sentence of subsec. (a) was amended effective for the 1983 and subsequent year crops by sec. 103 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 201, July 20, 1982. For the previous version of this sentence, see p. 9–6 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by the person who acquired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided,* That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer.[314–2] Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which said marketing year begins. [314–3]

(b) The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such

[314–2] See sec. 317(g)(2) and Secs. 319 (i)(2) and (i)(3) when marketing quotas are in effect.
[314–3] See sec. 317(g)(3).

account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

(c)[314–4] Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.

LIMITATION ON THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 314A.[314A–1] [7 U.S.C. 1314–1] (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount.

(b) The penalty provided for in subsection (a) shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary's findings of fact that a violation did occur and the amount of the penalty.

(c) The provisions of section 376 of this title shall apply to penalties under this section.

(d) As used in this section—

(1) the term "floor sweepings" means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business; and

(2) the term "allowable floor sweepings" means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.

[REFERENDUM FOR SINGLE COMBINED ACREAGE ALLOTMENT]

[SEC. 315.[315–1] * * *]

LEASE AND TRANSFER OF FLUE-CURED TOBACCO; FORFEITURE OF ALLOTMENT AND QUOTA

SEC. 316. [7 U.S.C. 1314b] (a)(1)[316–1] Notwithstanding any other provision of law—

(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm to which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allot-

314–4 Subsec. (c) was added by sec. 206(a) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 206, July 20, 1982. For the effective date of the 1982 amendment, see p. 9–35.

314A–1 Sec. 314A was added by sec. 306 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 215, July 20, 1982.

315–1 Sec. 315 was repealed by sec. 2 of P.L. 90–51, 81 Stat. 121, July 7, 1967.

316–1 Sec. 205 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1145, Nov. 29, 1983 substituted the current text of subsec. (a)(1) for the previous one, effective for the 1984 and subsequent crops of tobacco. For the previous text, see p. 9–8 of Agriculture Handbook No. 476, as of Mar. 11, 1983.

ment) is established under this Act to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment or quota of the same kind.

(ii) The Secretary shall, only with respect to the 1984 through 1986 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota except that for the 1985 and 1986 crops such lease and transfer shall be permitted only if (except as otherwise provided in paragraph (2)(A)) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section. Beginning with the 1985 crop, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement providing that none of the consideration for the lease of any Flue-cured tobacco acreage allotment and quota may be paid to the lessor prior to the marketing of the tobacco produced under the lease. The Secretary shall also require that any seller of a Flue-cured tobacco allotment and quota grant to the buyer an option to make payment therefore in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. With respect to the 1987 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas. Notwithstanding any other provision of law, for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease and transfer of allotments and quotas, under this section, in accordance with such conditions as are established by the Secretary. [316–2]

(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A)(i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved

[316–2] This sentence was added by sec. 1611(a) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 218, May 13, 2002.

Sec. 1611(b) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 218, May 13, 2002, requires the Secretary to conduct a study on the effects on the limitation on producers to move quota to a farm other than the farm to which the quota was initially assigned under this part and, not later than 90 days after the date of enactment of that Act, to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured tobacco allotment or quota for the farm. Notice of any determination made by the county committee under the preceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of this Act.I20 [(2)[316–2] * * *]

(b)[316–3] Any lease may be made for such terms of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c)[316–4] The lease and transfer or sale and transfer of any allotment shall not be effective until a copy of the lease or sale agreement, as the case may be, is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with provisions of this section. The transfer shall be approved acre for acre.

[TRANSFER OF ALLOTMENTS SUBSEQUENT TO 1965]

[SEC. 703 OF PUB. L. 89–321.[316–5] [7 U.S.C. 1316] Notwithstanding the provisions of subsection 316(c) and subsection 317(f) relating to transfer of allotments for years subsequent to 1965, of the Agricultural Adjustment Act of 1938, as amended, whenever acreage poundage quotas are in effect for any kind of tobacco[316–6] as provided in sec. 317 of the Act, the transfer shall be on a pound for pound basis and the acreage allotment for the transferee farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the transferee farm, and the acreage allotment for the transferor farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferor farm.]

[LEASE AND TRANSFER OF FLUE-CURED TOBACCO; FORFEITURE OF ALLOTMENT AND QUOTA—CONTINUED]

[SEC. 316.](d) The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment

316–2 Para. 2 was added by sec. 201(a) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 201, July 20, 1982. For the effective date of this amendment, see p. 9–35. Sec. 206 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1147, Nov. 29, 1983, eliminated para. (2) of subsec. (a), effective for the 1987 and subsequent crops of tobacco.

316–3 Subsec. (b) was amended by P.L. 91–284, 84 Stat. 314, June 19, 1970.

316–4 Sec. 2(b) of P.L. 101–134, 103 Stat. 781, Oct. 30, 1989, amended this subsec. by striking all after the first sentence and inserting the second sentence. For the previous text, see p. 9–11 of Agriculture Handbook No. 476, as of Jan., 1985.

316–5 Sec. 205(b) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 206, July 20, 1982, amended sec. 703 to conform with amendments relating to the sale and transfer of tobacco allotments made in other provisions of the Agricultural Adjustment Act of 1938 by P.L. 97–218. For the text of sec. 703 prior to the 1982 amendments see p. 9–8 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

316–6 The exception formerly made for Burley tobacco was eliminated by P.L. 91–284, 84 Stat. 314, June 19, 1970.

which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

[Subsection 316(e)(1) as set forth below is effective for the 1987 and subsequent crops of tobacco.**]**

(e)[316–7](1) The total acreage allotted to any farm after the transfer by lease or sale of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm. In[316–8] the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

(2)[316–9] Paragraph (1) shall not apply to flue-cured tobacco.

(3)[316–10] For purposes of this section, the term "tillable cropland" means cleared land that can be planted to crops without unusual cultivation or other preparation.

(f) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(g)[316–11](1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term "active Flue-cured tobacco producer" means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.

[Subsec. 316(g)(2) as set forth below is effective for the 1987 and subsequent crops of tobacco.**]**

316–7 Sec. 201(c) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 203, July 20, 1982, amended subsec. (e) by inserting the para. (1) designation, by adding in para. (1) the words "or sale" and the Flue-cured provision, and by adding para. (2). The text of subsec. (e)(1) had been previously amended by P.L. 9–52, 81 Stat. 121, July 7, 1967. Sec. 206(b) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1147, Nov. 29, 1983, amended subsec. (e)(1), effective for the 1987 and subsequent crops of tobacco by striking out "or, in the case of a Flue-cured tobacco" and inserting in lieu thereof "or, in the case of the sale of a flu-cured tobacco acreage allotment or poundage quota".

316–8 Sec. 803(c)(6)(A)(i) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; P.L. 106–78; 113 Stat. 1176; Oct. 22, 1999) amended this para. by striking "farm or, in" and all that follows through ": *Provided*, That in" and inserting "farm. In". Previously, the proviso was added by P.L. 91–284, 84 Stat. 314, June 19, 1970.

316–9 Sec. 803(c)(6)(A) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; P.L. 106–78; 113 Stat. 1176; Oct. 22, 1999) redesignated former para. (2) as para. (3) and inserted a new para. (2).

316–10 See note 316–9.

316–11 Subsec. (g) was added by sec. 201(d) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 203. July 20, 1982, which deleted the former subsec. (g). For the former version of subsec. (g) see p. 9–9 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

(2) [316–12] For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3) [316–13] TRANSFERS ALLOWED BY REFERENDUM.—

(A) REFERENDUM.—On the request of at least 25 percent of the active flue-cured tobacco producers within a State, the Secretary shall conduct a referendum of the active flue-cured tobacco producers within the State to determine whether the producers favor or oppose permitting the sale of a flue-cured tobacco allotment or quota from a farm in a State to any other farm in the State.

(B) APPROVAL.—If the Secretary determines that a majority of the active flue-cured tobacco producers voting in the referendum approves permitting the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State, the Secretary shall permit the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State.

(h) [316–14] (1) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(2) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco al-

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316–12 Sec. 206(b)(3) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1147, Nov. 29, 1983 amended subsec. (g)(2) by striking out the second sentence therein effective for the 1987 and subsequent crops of tobacco.

316–13 Para. (3) was added by sec. 803(c)(6)(B) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; P.L. 106–78; 113 Stat. 1176; Oct. 22, 1999).

316–14 Subsec. (h) was added by sec. 201(d) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 203, July 20, 1982, which deleted the former subsec. (h). For the former version of subsec. (h), see pp. 9–9 and 9–10 of Agriculture Handbook No. 476, as of Jan. 1, 1982. A second subsec. (h) was added by sec. 1112(a) of the Omnibus Budget Reconciliation Act of 1987, P.L. 100–203, 101 Stat. 1330–7, Dec. 22, 1987.

lotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

(h)(1)[316–15] Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of Flue-cured tobacco quota assigned to a farm if—

(A) the planted acreage of Flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

(B) the farm's expected production of Flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

[(i)[316–16] * * * **]**

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316A.[316A–1] **[**7 U.S.C. 1314b–1**]** (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual, any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes) which, on or after the date of the enactment of this section—

316–15 The second subsec. (h) was added by sec. 1112(a) of the Omnibus Budget Reconciliation Act of 1987, P.L. 100–203, 101 Stat. 1330–7, Dec. 22, 1987. This subsec. (h) should probably be subsec. (i).

316–16 Subsec. (i) was repealed by sec. 201(d) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 203, July 20, 1982. For the text of this former subsec., see p. 9–10 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

316A–1 Sec. 316A was added by sec. 202 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 205, July 20, 1982. For the effective date of the 1982 amendment, see p. 9–35. This sec. was amended by sec. 207 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1129, Nov. 29, 1983 by adding the phrases after "individual" and by striking out "1983" and inserting in lieu thereof "1984".

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c). In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition.

(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316B.[316B–1] [7 U.S.C. 1314b–2] (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section—

(1) owns a farm for which a Burley tobacco marketing quota is established under this Act; and

(2) does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes;

shall sell, not later than December 1, 1984, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b). Notwithstanding the foregoing provisions of this subsection, any person to whom this subsection, as in effect prior to the

[316B–1] Sec. 316B was added by sec. 302 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 210, July 20, 1982. This sec. was amended by sec. 207(b) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1148, Nov. 29, 1983, by striking out clause (2) and inserting in lieu thereof the current text, striking out "1983" and inserting in lieu thereof "1984", and adding the last sentence.

enactment of the Tobacco Adjustment Act of 1983, applies and who—

(A) is required to sell or forfeit the marketing quota by December 1, 1983, because the person was not significantly involved in the management or use of the land for agricultural purposes, but

(B) would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983,

may, if the person elects to do so, sell such person's marketing quota if a record of the transfer is filed with the county committee by February 1, 1984.

(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

(c)(1) Any person who—

(A) acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

(B) with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

(2) For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

ACREAGE—POUNDAGE QUOTAS

SEC. 317.[317–1] [7 U.S.C. 1314c] (a) For purposes of this section—

(1)(A) Except as provided in subparagraph (B), "national marketing quota" for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(B)[317–2] For the 1986 and each subsequent crop of Flue-cured tobacco "national marketing quota" for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

(C)[317–3] Notwithstanding any other provision of law—

(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

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[317–1] Sec. 317 was added by P.L. 89–12, 79 Stat. 66, Apr. 16, 1965. Subsec. (a) was amended by sec. 203 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 95 Stat. 205, July 20, 1982, to add the last sentence in each of the paras. (2), (4) and (6)(A). Sec. 1103(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 86, Apr. 7, 1986, substituted "(A) Except as provided in subparagraph (B), "national marketing quota" for "national marketing quota" and added subparas. (B) and (C).

[317–2] See footnote 317–1.

[317–3] See footnote 317–1.

(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1996[317–4] marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Flue-cured tobacco.[317–5]

(2)[317–6] "National average yield goal" for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. Notwithstanding the preceding sentence, in 1983,, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.[317–7]

(3) "National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4)[317–8] "Farm acreage allotment" for a tobacco farm other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to the undermarketings or overmarketings and prior to any reduction under subsection (f), so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 313 shall be adjusted in lieu of the acreage allotment for the immediately preceding year. Notwithstanding the preceding provisions of this subsection, in 1983, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not

317–4 Sec. 1106(d)(2)(A) of the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66, 107 Stat. 323, Aug. 10, 1993, amended clause (ii) by striking "1993" and inserting "1996".

317–5 Sec. 1106(d)(2)(B) of the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66, 107 Stat. 323, Aug. 10, 1993, amended clause (ii) by inserting before the period ", except that" and all that follows through "level for Flue-cured tobacco".

317–6 Sec. 1112(b) of the Omnibus Budget Reconciliation Act of 1987, P.L. 100–203, 101 Stat. 1330–8, Dec. 22, 1987, deleted "and at five year intervals thereafter" in paras. (2), (4) and (6)(A). Double commas after "1983" so in original.

317–7 See footnote 317–1.

317–8 See footnote 317–6.

available, on such other data on yields as the Secretary may deem appropriate.[317–9]

(5) The "community average yield" means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions of section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A)[317–10] "Preliminary farm yield" for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the year in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community. Notwithstanding the preceding provisions of this subsection, in 1983, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.[317–11]

(B) "Preliminary farm yield" for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the immediately preceding 5 crop years shall be used by

[317–9] See footnote 317–1.
[317–10] See footnote 317–6.
[317–11] See footnote 317–1.

the Secretary[317–12]. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(7) "Farm yield" means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) and dividing the sum of the products by the national acreage allotment.

(8) "Farm marketing quota" for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided,* That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) Within thirty days after the enactment of this section the Secretary pursuant to the provisions of subsection (a) of this section

[317–12] Sec. 2(a)(2) of P.L. 101–134, 103 Stat. 781, Oct. 30, 1989, amended subpar. (B) by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time the next announcement of the amount of the national marketing quota under section 312(b) of this Act determine and announce the amount of the national quota for that kind of tobacco under this section of the Act and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however,* That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 312(a).

(d)[317–13] If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) the Secretary shall, not later than December 15

[317–13] Sec. 317(d) was amended by sec. 208 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1148, Nov. 29, 1983 by striking out "December 1" and "February 1" each time they appear in the first and sixth sentences and inserting in lieu thereof "December 15" and "March 1", respectively.

of any marketing year with respect to Flue-cured tobacco, and March 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985.[317–14] The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 312(c) of this Act. Notwithstanding the foregoing sentence or section 312(c) of this Act, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after the date of enactment of this sentence, or (2) March 15, 1986.[317–15] If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c). The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 15 with respect to Flue-cured tobacco and the March 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary

[317–14] This sentence was added by sec. 4 of P.L. 99–182, 99 Stat. 1173, Dec. 13, 1985.
[317–15] This sentence was added by sec. 1 of the P.L. 99–241, 100 Stat. 3, Jan. 30, 1986.

prior to such date of enactment shall become void on enactment of such Act.[317–16]

(e)[317–17] No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 3 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years (except that not less than two-thirds of such reserve shall be for new farms). The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms.

(f)[317–18] Only the provisions of the last two sentences of subsection (g) of section 313 of this Act shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an average allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 378 of this Act, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316)[317–19] be leased and sold under the terms and conditions contained in section 316 of this Act, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather

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[317–16] The last two sentences were added by sec. 1104(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 89, Apr. 7, 1986.

[317–17] Sec. 317(e) was amended by sec. 209 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1129, Nov. 29, 1983 by striking out "1 per centum" and inserting in lieu thereof "3 per centum" in the second sentence and inserting the language which appears between the parenthesis; and by striking out the last phrase in the last sentence after the word "farm".

[317–18] Sec. 205 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–98, 96 Stat. 206, July 20, 1982, amended subsec. (f) by adding the words "and sold" in the fifth sentence. Also see, P.L. 89–321, sec. 703.

[317–19] P.L. 91–284, 84 Stat. 314, July 19, 1970, deleted from the clause in parentheses an exception for Burley tobacco.

than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 316 on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1)[317–20] No penalty on excess tobacco shall be due or collected until 103 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with paragraph (a)(8): *Provided, however,* If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N_2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of subsection 314(a) shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketing of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty, in respect thereof shall be paid and remitted by the producer.

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words "normal production" where they appear in the fourth sentence of subsection (a) of such section shall be read "farm yield" and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) shall apply when penalties, if any, on carry-

[317–20] Sec. 1105(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 90, Apr. 9, 1986, substituted "103" for "110" in para. (1), effective for the 1986 and subsequent crops of tobacco.

over tobacco are computed, and the provisions contained in the fourth sentence of subsection 314(a) shall not be applicable.

(h) Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f). The additional acreage and quotas required under this subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under preceding provisions of this subsection;

(B) clause (1) of the Act of July 12, 1952, shall for such purpose read as follows: "(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis"; and

(C) the proviso of that Act shall for such purpose read as follows: "*Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis.".

(i) If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b), the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry[317–21] on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

(j)[317–22] Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified

[317–21] Sec. 4(a)(5) of P.L. 103–437, 108 Stat. 4581, Nov. 2, 1994, struck "Committee on Agriculture and Forestry" and substituted "Committee on Agriculture, Nutrition, and Forestry".

[317–22] Subsec. (j) was added by sec. 206(b) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 207, July 20, 1982.

shall be considered for the purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.

(k)[317–23](1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this Act shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.

(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture specified in such paragraph exist. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 316(g)(1) of this Act) in the county involved.

(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is dissatisfied with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of this Act.

(l)[317–24] The Secretary shall determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.

[TOBACCO DEFINITION]

[SEC. 4 OF PUBLIC LAW 89–12.[317–25] [7 U.S.C. 1314c note] Nothing in this Act shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under sec. 301(b)(15) or sec. 313(i) of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco.]

SALE OR LEASE OF ACREAGE ALLOTMENTS

SEC. 318.[318–1] [7 U.S.C. 1314d] (a) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established

[317–23] Subsec. (k) was added by sec. 205(b) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1147, Nov. 29, 1983, effective for the 1984 and subsequent crops of tobacco.

[317–24] Subsec. (l) was added by sec. 210 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1149, Nov. 29, 1983.

[317–25] 79 Stat. 66, Apr. 16, 1965.

[318–1] Sec. 318 was added by P.L. 90–51, 81 Stat. 120, July 7, 1967. Subsec. (b) was then amended by P.L. 90–387, 82 Stat. 293, July 5, 1968.

under this Act to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him.

(b)[318–2] Transfers under this section shall be subject to the following conditions: (1) except as provided in section 379(b) of this Act, no allotment or quota shall be transferred to a farm in another county: *Provided,* That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State;[318–3] (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section.

(c) The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided,* That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made.

(e)[318–4] The transfer of an allotment or quota under this section shall be approved acre for acre.

(f) Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree.

(g)[318–5] TRANSFER OF ALLOTMENTS.—Under this section, the total acreage allotted to any farm after any transfer shall not exceed 50 percent of the acreage of cropland on the farm.

(h) The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred,

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[318–2] Sec. 318(b) was amended by sec. 212(a) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1149, Nov. 29, 1983 by inserting the exception immediately after "(l)".

[318–3] This proviso was added by P.L. 92–144, 85 Stat. 393, Oct. 23, 1971.

[318–4] Subsec. (e) amended to read as provided above by sec. 1 of P.L. 102–566, Oct. 28, 1992. For the text of the previous version of subsec. (e), see p. 4–25 and 4–26 of Volume I—Domestic Agricultural Programs, through P.L. 102–371.

[318–5] Sec. 204(b)(8) of P.L. 106–224, 114 Stat. 402, June 20, 2000, amended subsec. (g) in its entirety.

except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum.

(i) If the sale or transfer under this section occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made.

(j) The Secretary shall prescribe such regulations and other terms and conditions as he deems necessary for the administration of this section.

FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO [319–1]

SEC. 319. [319–2] [7 U.S.C. 1314e] (a) Notwithstanding any other provision of law, the Secretary shall, within thirty days following the enactment of this section, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 312 of the Act shall apply: *Provided,* That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of

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[319–1] The heading of sec. 319 was changed from "Farm Poundage Quotas for Burley Tobacco" by sec. 303(j) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982.

[319–2] Sec. 319 was added by P.L. 92–10, 85 Stat. 23, Apr. 14, 1971. The text of subsec. (a) beginning with the sixth sentence was previously designated subsec. (b). Sec. 303(b) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 211, July 20, 1982, deleted that subsec. designation and made certain changes in the sixth, seventh, ninth, and tenth sentences with respect to burley tobacco. For the text of subsec. (a) prior to the 1982 amendment see p. 9–19 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

any three-year period for which marketing quotas on a poundage basis are in effect for burley tobacco under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis for burley tobacco under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect for burley tobacco under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986.[319–3] Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for burley tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 312 of the Act shall apply: *Provided,* That the national marketing quota and farm marketing quotas shall be determined for burley tobacco as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practical, be mailed to the farm operator in sufficient time to be received prior to the referendum. Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.[319–4]

(b)[319–5] Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as "fire-cured tobacco") for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of to-

[319–3] This sentence was added by sec. 2 of P.L. 99–241, 100 Stat. 3, Jan. 30, 1986.

[319–4] This sentence was added by sec. 1104(d) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 89, Apr. 7, 1986.

[319–5] Subsec. (b) was added by sec. 303(c) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 211, July 20, 1982.

bacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983.

If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

The Secretary shall determine and announce, not later than the March
1 [319–6] preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than March 1 [319–7] of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall pro-

[319–6] Sec. 1104(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 89, Apr. 7, 1986, substituted "March 1" for "February 1" in each place it appears in the fourth para.

[319–7] See footnote 319–6.

claim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply: *Provided,* That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.

(c)[319–8] (1)[319–9] Except as provided in paragraph (3), the national marketing quota determined under this section for any kind of tobacco for which poundage quotas may be established for any marketing year shall be the amount of such kind of tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level.

(2)[319–10] For each marketing year for which marketing quotas are in effect for a kind of tobacco under this section, the Secretary in his discretion may establish a reserve with respect to such kind of tobacco (hereinafter referred to as the "national reserve") from the national marketing quota for such kind of tobacco in an amount not in excess of 1 per centum of such national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(3)[319–11] (A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

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[319–8] Subsec. (c) was amended by sec. 303(d) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 213, July 20, 1982. For the former version of subsec. (c), see p. 9–20 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

[319–9] Sec. 1103(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 87, Apr. 7, 1986, (1) substituted "(1) Except as provided in para. (3), the national marketing quota" for "The national marketing quota" in the first sentence; (2) struck out the second sentence; (3) designated the third sentence as para. (2); and (4) added para. (3).

[319–10] See footnote 319–9.

[319–11] See footnote 319–9.

(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

(B) Except as provided in subparagraph (D), in [319–12] determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

(I) 35,000,000 pounds; or

(II) 50 percent of the quantity by which—

(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

(bb) the reserve stock level for Burley tobacco.

(C) Notwithstanding any other provision of law—

(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1996 [319–13] marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year, except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Burley tobacco. [319–14]

(D) [319–15] NONAPPLICABILITY OF DOWNWARD ADJUSTMENT.—If the Secretary determines for any of the 2001 or subsequent crop years that noncommitted pool stocks of Burley tobacco are equal to or less than the reserve stock level established under this paragraph, subparagraph (B) shall not apply to the crop year for which the determination is made and all subsequent crop years.

[319–12] Sec. 204(b)(9)(A) of P.L. 106–224, 114 Stat. 403, June 20, 2000, amended subpara. (B) by striking "In" and inserting "Except as provided in subparagraph (D), in".

[319–13] Sec. 1106(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66, 107 Stat. 323, Aug. 10, 1993, amended clause (ii) by striking "1993" and inserting "1996".

[319–14] Sec. 1106(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66, 107 Stat. 323, Aug. 10, 1993, amended clause (ii) by inserting before the period ", except that" and all that follows through "level for Burley tobacco".

[319–15] Subpara. (D) added by sec. 204(b)(9)(B) of P.L. 106–224, 114 Stat. 403, June 20, 2000.

(d)[319–16] When a national marketing quota is first proclaimed for a kind of tobacco under this section, the Secretary shall through local committees determine a farm yield for each farm for which an acreage allotment for such kind of tobacco was established for the marketing year beginning October 1, 1970, in the case of burley tobacco, and for the previous marketing year[319–17], in the case of dark air-cured tobacco and fire-cured tobacco. Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year, in the case of burley tobacco, and the immediately preceding 5 crop years[319–18], in the case of dark air-cured tobacco and fire-cured tobacco: *Provided,* That if the kind of tobacco involved was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that such kind of tobacco was produced on the farm: *Provided further,* That if no such kind of tobacco was produced on the farm but the farm was considered as having planted such kind of tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which such kind of tobacco was produced during such five-year period: *And provided further,* That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further,* That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.

(e)[319–19] A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the Act) established for such farm for the marketing year beginning October 1, 1970. A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the previous marketing

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[319–16] Sec. 303(e) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 213, July 20, 1982, made certain changes in subsec. (d) with respect to dark air-cured and fire-cured tobacco and added the last proviso. For the former version of subsec. (d), see p. 9–20 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

[319–17] Sec. 2(a)(1)(A)(i) of P.L. 101–134, 103 Stat. 781, Oct. 30, 1989, amended subsec. (d) by striking "October 1, 1982" and inserting "for the previous marketing year".

[319–18] Sec. 2(a)(1)(A)(ii) of P.L. 101–134, 103 Stat. 781, Oct. 30, 1989, amended subsec. (d) by striking "1978 crop year" and inserting "immediately preceding 5 crop years".

[319–19] Sec. 303(f) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982, added the second sentence of subsec. (e) and made certain other changes in the text to reflect coverage of dark air-cured and fire-cured, as well as, burley tobacco. For the text of subsec. (e) prior to the 1982 amendment, see p. 9–21 of Agriculture Handbook No. 476, as of Jan. 1, 1981. In addition, P.L. 98–59, 97 Stat. 296, July 25, 1983, amended the fourth sentence of subsec. (e) by striking out "95 per centum" and inserting in lieu thereof "90 per centum".

year[319–20], by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the previous marketing year[319–21]. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided,* That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year: *Provided,*[319–22] That except in the case of Burley tobacco, such national factor shall not be less than 90 per centum: *Provided further,* That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments), except that (1)[319–23] any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings, and (2)[319–24] the aggregate of such in-

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[319–20] Sec. 2(a)(1)(B) of P.L. 101–134, 103 Stat. 781, Oct. 30, 1989, amended the second sentence of subsec. (e) by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

[319–21] See footnote 319–20.

[319–22] Sec. 1103(c)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 87, Apr. 7, 1986, added ", except in the case of Burley tobacco," after "*Provided,* That" in the fourth sentence.

[319–23] Sec. 204(b)(10)(A)(i) of P.L. 106–224, 114 Stat. 403, June 20, 2000, amended this sentence by striking ": *Provided*, That" and inserting ", except that (1)". Sec. 302 of P.L. 106–472, 114 Stat. 2069, Nov. 9, 2000, provides that the amendments made by section 204(b)(10)(A) of P.L. 106–224 shall apply beginning with undermarketings of the 2001 crop of burley tobacco and with marketings of the 2002 crop of burley tobacco.

Inability to execute subsequent amendment is so in original. Sec. 765(a)(1) of division A of P.L. 108–7, 117 Stat. 11, Feb. 20, 2003, amended this sentence by striking ": *Provided,* That" and inserting ", except that (1)". The amendment could not be executed because sec. 204(b)(10)(A)(i) of P.L. 106–224, 114 Stat. 403, June 20, 2000, already made the amendment specified in sec. 765(a)(1) of division A of P.L. 108–7, 117 Stat. 11, Feb. 20, 2003.

[319–24] Sec. 204(b)(10)(A)(ii) of P.L. 106–224, 114 Stat. 403, June 20, 2000, amended this sentence by inserting before the period at the end the following: ", and (2) the aggregate of such increases for all farms for any crop year may not exceed 10 percent of the national basic quota for the preceding crop year". For effective date, see note 319–23.

Addition of a duplicative clause (2) is so in original. Sec. 765(a)(2) of division A of P.L. 108–7, 117 Stat. 11, Feb. 20, 2003, amended this sentence by inserting before the period at the end the following: ", (2) the total quantity of all adjustments under this sentence for all farms for any crop year may not exceed 10 percent of the national basic quota for

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creases for all farms for any crop year may not exceed 10 percent of the national basic quota for the preceding crop year, (2)[319–24] the total quantity of all adjustments under this sentence for all farms for any crop year may not exceed 10 percent of the national basic quota for the preceding crop year, and (3) this sentence shall not apply to the establishment of a marketing quota for the 2003 marketing year. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided,* That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past experience of the farm operator with respect to the kind of tobacco involved; the land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of such kind of tobacco: *Provided,* That the farm marketing quota for any such new farm shall not exceed 50 per centum of average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further,* That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f)[319–25] When a poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for any farm shall be reduced by the amount of such kind of tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided,* That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g)(1)[319–26] When a poundage program is in effect for any kind of tobacco under this section, farm marketing quotas (after adjust-

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the preceding crop year, and (3) this sentence shall not apply to the establishment of a marketing quota for the 2003 marketing year".

[319–25] Subsec. (f) was amended by sec. 303(g) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982, to reflect the coverage of dark air-cured and fire-cured, as well as burley tobacco. For the text of subsec. (f) prior to the 1982 amendment, see p. 9–22 of Agriculture Handbook No. 476, as of Jan. 1, 1982.

[319–26] Subsec. (g) was amended by sec. 303(h) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982, to reflect coverage of dark air-cured and fire-cured tobacco. For the text of subsec. (g) prior to the 1982 amendment, see p. 9–22 of Agriculture Handbook No. 476, as of Jan. 1, 1981. It was further amended by sec. 211 of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1149, Nov. 29, 1983, effective for the 1984 and subsequent crops of tobacco, by striking the third proviso and inserting in lieu thereof the new third and fourth provisos.

Sec. 2(a) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2856, Nov. 15, 1990, amended subsec. (g) by inserting "(1)" after the subsection designation, and adding at the end paras. (2) and (3).

ments) for such kind of tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 318 of the Act: *Provided,* That such leases and transfers shall be on a pound for pound basis: *Provided further,* That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further,* That not more than thirty thousand pounds[319–27] of Burley tobacco quota may be leased and transferred to any farm under this section: *Provided further,*[319–28] That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer: *And provided further,* That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(2)[319–29] Effective for the 1991 and subsequent crop years, the Secretary may, during any one year, and subject to such rules as the Secretary deems appropriate, permit the sale of a burley tobacco quota from one farm to another farm in the same county if the buyer, who is an active burley tobacco producer, is not buying an amount larger than 30 percent of the existing quota for the buyer's farm, or 20,000 pounds whichever is greater. For purposes of this subsection, the term "active burley tobacco producer" means any person who shared in the risk of producing a crop of burley tobacco in not less than one of the three years preceding the year involved, or any person who certified to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become an active burley tobacco producer. A person shall be considered to have shared in the risk of producing a crop of burley tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the investment of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

(3)[319–30] No sale of burley tobacco quota from a farm shall be permitted, under paragraph (2), if any sale of quota to the same farm has been made within the three immediately preceding crop years. A sale of burley tobacco quota shall not be effective for a crop year unless a record of the sale is filed with the county committee not later than July 1 of the crop year. The marketing quota deter-

[319–27] Sec. 2(d) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2857, Nov. 15, 1990, amended subsec. (g) by striking "fifteen thousand pounds" and inserting "thirty thousand pounds".

[319–28] Sec. 1107 of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 91, Apr. 7, 1986, added the material in the fourth proviso after "July 1 of that crop year" effective with respect to the 1985 and subsequent crops of Burley tobacco.

[319–29] See footnote 319–26.

[319–30] See footnote 319–26.

mined for any farm subsequent to such sale shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 percent of the acreage of cropland in the farm.

(h) Effective with the marketing year beginning October 1, 1994,[319–31] no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any two of the three years[319–32] immediately preceding the year for which farm marketing quotas are being established.

(i)[319–33] When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1)[319–34] No penalty on excess tobacco shall be due or collected until 103 centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with section 319(e): *Provided,* That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of the kind of tobacco involved during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 314(a) shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty, in respect thereof shall be paid and remitted by the producer."

(3) The provisions contained in the fourth sentence of section 314(a) shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect with respect to burley tobacco, the farm mar-

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[319–31] Sec. 2(b) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2856, Nov. 15, 1990, amended subsec. (h) by striking "1976" and substituting "1994".

[319–32] Sec. 2(b) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2856, Nov. 15, 1990, amended subsec. (h) by striking "of the five" and substituting "two of the three".

[319–33] Subsec. (i) was amended by sec. 303(i) of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982, to reflect the coverage of dark air-cured and fire-cured as well as burley tobacco. For the former version of subsec. (i), see pp. 9–22 and 9–23 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

[319–34] Sec. 1105(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 90, Apr. 7, 1986, substituted "103" for "110" effective for 1986 and subsequent crops of tobacco.

keting quota determined under the provisions of section 319(e) shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of section 319(c) shall apply.

(j) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

(k) [319–35] (1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.

(3) [319–36] **LIMITATION.**—*The total quantity of quota leased or transferred to a farm during a crop year under this subsection may not exceed 15 percent of the quota on the farm that existed prior to any such lease or transfer for the crop year.*

(l) [319–37] LEASE AND TRANSFER OF BURLEY TOBACCO QUOTA.—

(1) APPROVAL BY PRODUCERS.—Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a Burley tobacco quota from one farm in a State to any other farm in the State if, in a State-wide referendum conducted by the Secretary, a majority of the active Burley tobacco producers voting in the referendum approve the use of that type of lease and transfer.

(2) APPLICATION.—This subsection shall apply only to the States of Tennessee, Ohio, Indiana, Kentucky, and Virginia.

(m) [319–38] COMPUTERIZED RECORDKEEPING SYSTEM FOR BURLEY TOBACCO QUOTA AND ACREAGE.—

(1) PRODUCER REPORTS.—Each person that owns a farm for which a Burley tobacco marketing quota is established under this Act shall annually file with the Secretary a report describing the acreage planted to Burley tobacco on the farm.

(2) COMPUTERIZED RECORDKEEPING SYSTEM.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall establish a computerized recordkeeping system that contains all information reported under

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[319–35] Subsec. (k) was added by sec. 304(a) of the Disaster Assistance Act of 1988, P.L. 100–387, 102 Stat. 948, Aug. 11, 1988.

[319–36] Effective July 1, 2001, para. (3) added by sec. 204(b)(10)(B) of P.L. 106–224, 114 Stat. 403, June 20, 2000. Sec. 101(10) of H.R. 5666 of the 106th Congress, as enacted by section 1(4) of Public Law 106–554 (114 Stat. ____), delayed until July 1, 2001, the effective date of the amendment made by sec. 204(b)(10)(B) of P.L. 106–224, 114 Stat. 403, June 20, 2000.

[319–37] Sec. 204(b)(11) of P.L. 106–224, 114 Stat. 403, June 20, 2000, amended subsec. (l) in its entirety. Previously, subsec. (l) was added by sec. 2(e) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2857, Nov. 15, 1990, and amended by sec. 116(1) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1840, Dec. 13, 1991; and sec. 755(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, P.L. 106–78, 113 Stat. 1170, Oct. 22, 1999.

[319–38] Subsecs. (m) and (n) added by sec. 204(b)(12) of P.L. 106–224, 114 Stat. 403, June 20, 2000.

paragraph (1) and related records, as determined by the Secretary.

(n)[319–38] SALE OF BURLEY TOBACCO QUOTA.—Notwithstanding any other provision of this section, if a person that owns a farm for which a Burley tobacco marketing quota is established under this Act sells all or part of the acreage on the farm to a buyer, the Secretary shall permit the seller and buyer of the acreage to determine the percentage of the quota that is transferred with the acreage sold.

[NONQUOTA TOBACCO SUBJECT TO QUOTA]

SEC. 320.[320–1] **[**7 U.S.C. 1314f**]** (a) Notwithstanding any other provision of law, effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of quota tobacco produced in the area having the highest price support under the Agricultural Act of 1949.

(b) Subsection (a) of this section shall not apply to—

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota area on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect;

(2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut and Massachusetts, and cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia and Florida;

(4) tobacco produced in a quota area that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco; and

(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.

[320–1] Sec. 320 was added by P.L. 93–411, 88 Stat. 1089, Sept. 3, 1974. Sec. 1108, P.L. 97–98, 95 Stat. 1266, Dec. 22, 1981 amended it, effective for the 1982 crop, to provide the current language of subsec. (a) and subsec. (b) (1) through (4). Subsec. (b)(5) was added by sec. 204 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 206, July 20, 1982. For the former version of sec. 320, see p. 9–23 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

SUBMISSION OF PURCHASE INTENTIONS BY CIGARETTE MANUFACTURERS

SEC. 320A.[320A–1] [7 U.S.C. 1314g] (a)(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of such Act or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the "quantity of intended purchases").

(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

(b) If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this Act, based on—

(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

(c)(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

(A)(i) brought at the direction, or on the request, of the Secretary; or

(ii) to which the Secretary or any officer of the United States is a party; and

(B) involving enforcement of this Act.

(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this Act, together with a statement of the particular provisions of the Act violated by such person.

(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

[320A–1] Sec. 1103(d) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 88, Apr. 7, 1986, added sec. 320A effective for the 1986 and each subsequent crop of tobacco.

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

(B) removed from office.

(d) Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

PURCHASE REQUIREMENTS; PENALTY

SEC. 320B.[320B–1] [7 U.S.C. 1314h] (a)(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperatives marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

(b)(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) a quantity of Flue-cured quota tobacco and a quantity of Burley tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c).

(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

(B) For purposes of this section, the term "marketed" shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) for a price support advance.

[320B–1] Sec. 320B was added by sec. 1106(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 90, Apr. 1986, effective for the 1986 and subsequent crops of tobacco.

(c) The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

(1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 or 1445–2)) for the kind of tobacco involved; by

(2) the quantity by which—

(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under subsection (b)(2)).

(d)(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 106A or 106B of the Agricultural Act of 1949.

(e) The limitations on disclosure set forth in subsections (c) and (d) of section 320A shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley tobacco quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4).

(f) As used in this section, the term "quota tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

SEC. 320C. [7 U.S.C. 1314i] DOMESTIC MARKETING ASSESSMENT. [320C–1]

(a) CERTIFICATION.—A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year, the percentage of the quantity of tobacco used by the manufacturer to produce cigarettes during the year that is produced in the United States.

(b) PENALTIES.—

(1) IN GENERAL.—Subject to subsection (f), a domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year a quantity of tobacco grown in the United States that is at least 75 percent of the total quantity of tobacco used by the manufacturer, or to comply with subsection (a), shall be subject to the requirements of subsections (c), (d), and (e).

(2) FAILURE TO CERTIFY.—For purposes of this section, if a manufacturer fails to comply with subsection (a), the manufac-

[320C–1] *This sec. was added by sec. 1106(a) of the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66, 107 Stat. 318, Aug. 10, 1993. For effective date, see subsec. (g) of this sec.*

turer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

(3) REPORTS AND RECORDS.—

(A) IN GENERAL.—The Secretary shall require manufacturers of domestic cigarettes to make such reports and maintain such records as are necessary to carry out this section. If the reports and records are insufficient, the Secretary may request other persons to provide supplemental information.

(B) EXAMINATIONS.—For the purpose of ascertaining the correctness of any report or record required under this section, or of obtaining further information required under this section, the Secretary and the Office of Inspector General may examine such records, books, and other materials as the Secretary has reason to believe may be relevant. In the case of a manufacturer of domestic cigarettes, the Secretary may charge a fee to the manufacturer to cover the reasonable costs of any such examination.

(C) PENALTIES.—Any person who fails to provide information required under this paragraph or who provides false information under this paragraph shall be subject to section 1001 of title 18, United States Code.

(D) CONFIDENTIALITY.—Section 320A(c) shall apply to information submitted by manufacturers of domestic cigarettes and other persons under this paragraph.

(E) DISCLOSURE.—Notwithstanding any other provision of law, information on the percentage or quantity of domestic or imported tobacco in cigarettes or on the volume of cigarette production that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

(c) DOMESTIC MARKETING ASSESSMENT.—

(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

(2) AMOUNT.—The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

(A) the quantity by which the quantity of imported tobacco used by the manufacturer to produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

(B) the difference between—

(i) ½ of the sum of—

(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

(3) COLLECTION.—An assessment imposed under this subsection shall be—

(A) collected by the Secretary and transmitted to the Commodity Credit Corporation; and

(B) enforced in the same manner as provided in section 320B.

(d) PURCHASE OF BURLEY TOBACCO.—

(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) QUANTITY.—Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

(3) LIMITATION.—If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

(e) PURCHASE OF FLUE-CURED TOBACCO.—

(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

(2) QUANTITY.—Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manu-

facturer to produce cigarettes during the preceding calendar year.

(3) LIMITATION.—If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

(f) CROP LOSSES DUE TO DISASTERS.—

(1) IN GENERAL.—If the Secretary, in consultation with producer-owned cooperative marketing associations, determines that because of drought, insect or disease infestation, or other natural disaster, or other condition beyond the control of producers, the total quantity of a crop of domestic Burley tobacco or Flue-cured tobacco that is harvested and suitable for marketing is substantially less than the expected yield for the crop, and that pool inventories for the kind of tobacco involved have been depleted, effective for the calendar year following the year in which the crop loss occurs, the Secretary may reduce the minimum percentage of domestic tobacco specified in subsection (a) to a percentage below 75 percent, as determined by the Secretary, that reflects the reduced availability of domestic supplies of the kind of tobacco involved.

(2) DETERMINATION OF EXPECTED YIELD.—For purposes of paragraph (1), the Secretary shall determine the expected yield for a crop of Burley tobacco or Flue-cured tobacco by taking into consideration—

(A) the total acreage planted to the crop (including acreage that the producers were prevented from planting because of a condition referred to in paragraph (1)); and

(B) normal farm yields established for the crop.

(3) DEADLINE FOR DETERMINATIONS.—The Secretary shall make determinations under paragraph (1) about crop losses and announce the reduced percentage of the domestic tobacco pool not later than November 30 of the year in which the applicable crop of Burley tobacco or Flue-cured tobacco is harvested.

(g)[320C–2] *EFFECTIVE DATE.—This section shall be effective only for calendar year 1994.*

[320C–2] *This subsec. was added by sec. 422(a) of the Uruguay Round Agreements Act, P.L. 103–465, 108 Stat. 4964, Dec. 8, 1994. Sec. 422(e) of the Act provides that the amendments made by the sec. 422 of the Act shall be effective beginning on the effective date of the Presi-*

SEC. 320D. [7 U.S.C. 1314i] TOBACCO PRODUCTION AND MARKETING INFORMATION. [320D–1]

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, subject to subsection (b), release marketing information submitted by persons relating to the production and marketing of tobacco to State trusts or similar organizations engaged in the distribution of national trust funds to tobacco producers and other persons with interests associated with the production of tobacco, as determined by the Secretary.

(b) LIMITATIONS.—

(1) IN GENERAL.—Information may be released under subsection (a) only to the extent that—

(A) the release is in the interest of tobacco producers, as determined by the Secretary; and

(B) the information is released to a State trust or other organization that is created to, or charged with, distributing funds to tobacco producers or other parties with an interest in tobacco production or tobacco farms under a national or State trust or settlement.

(2) EXEMPTION FROM RELEASE.—The Secretary shall, to the maximum extent practicable, in advance of making a release of information under subsection (a), allow, by announcement, a period of at least 15 days for persons whose consent would otherwise be required by law to effectuate the release, to elect to be exempt from the release.

(c) ASSISTANCE.—

(1) IN GENERAL.—In making a release under subsection (a), the Secretary may provide such other assistance with respect to information released under subsection (a) as will facilitate the interest of producers in receiving the funds that are the subject of a trust described in subsection (a).

(2) FUNDS.—The Secretary shall use amounts made available for salaries and expenses of the Department to carry out paragraph (1).

(d) RECORDS.—

(1) IN GENERAL.—A person that [320D–2] obtains information described in subsection (a) shall maintain records that are consistent with the purposes of the release and shall not use the records for any purpose not authorized under this section.

(2) PENALTY.—A person that[320D–2] knowingly violates this subsection shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

(e) APPLICATION.—This section shall not apply to—

(1) records submitted by cigarette manufacturers with respect to the production of cigarettes;

(2) records that were submitted as expected purchase intentions in connection with the establishment of national tobacco quotas; or

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dential proclamation, authorized under sec. 421 of the Act, establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.

[320D–1] This sec. was added by sec. 1 of P.L. 106–47, 113 Stat. 228, Aug. 13, 1999. Sec. 755(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, P.L. 106–78, 113 Stat. 1170, Oct. 22, 1999, added a sec. 320D that was identical to this sec., except that the later sec. 320D changed 2 references in subsec. (d) from "A person that" to "A person who". Sec. 755(b) of that Act was subsequently repealed by sec. 211 of H.R. 3425 of the 106th Congress, as enacted by sec. 1000(a)(5) of div. B of P.L. 106–113 (113 Stat. 1536).

[320D–2] See note 320D–1.

(3) records that aggregate the purchases of particular buyers.

[Part II was made inapplicable to the 2002 through 2007 crops of corn.]

PART II—ACREAGE ALLOTMENTS—CORN [321–1]

[MARKETING QUOTAS FOR CORN]

[SECS. 321 to 325. [321–2] ** * *]*

ADJUSTMENT OF FARM MARKETING QUOTAS

[*Section 326 was repealed by P.L. 83–690, 68 Stat. 902 insofar as it was applicable to corn; (b) and (c) below were made applicable to wheat by para. (6), P.L. 74, 77th Congress, 55 Stat. 203. Sec. 326 as set forth below is inapplicable to the 1996 through 2002 crops of corn.****]*

SEC. 326. [326–1] ***[****7 U.S.C. 1326****]*** *(a) Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotment in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.*

(b) Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 324 which, together with the actual production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.

(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.

[ADMINISTRATION]

[SECS. 327 to 329. [327–1] ** * *]*

NONESTABLISHMENT OF ACREAGE ALLOTMENTS

SEC. 330. [330–1] ***[****7 U.S.C. 1329a****]*** *Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.*

[321–1] *Part II was made inapplicable to the 2002 through 2007 crops of corn by sec. 1602(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002.*

Part II was made inapplicable to the 1996 through 2002 crops of corn by sec. 171(a)(1)(A) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996.

An acreage allotment program is not in effect for corn due to the results of the corn referendum held on Nov. 25, 1958, in which farmers approved a price support program without acreage allotments for the 1959 and subsequent crops. Accordingly, section 330 became effective.

[321–2] *Secs. 321–325, containing provisions relating to marketing quotas for corn, were repealed by P.L. 83–690, 68 Stat. 902, Aug. 28, 1954.*

[326–1] *See footnote 321–1.*

[327–1] *See footnote 321–1. Secs. 327 through 329 are omitted from this Handbook because of the reasons stated in footnote 321–1. For the text of these Secs., see Agriculture Handbook No. 281.*

[330–1] *See footnote 321–1. Sec. 330 was added by P.L. 85–835, 72 Stat. 994, Aug. 28, 1958.*

[Part III was made inapplicable to the 2002 through 2007 crops of wheat.]

PART III—MARKETING QUOTAS—WHEAT [331–1]

LEGISLATIVE FINDINGS

SEC. 331.[331–2] *[7 U.S.C. 1331] Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.*

Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.

The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.

[321–1] *Part III was made inapplicable to the 2002 through 2007 crops of wheat by sec. 1602(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002.*

Part III was made inapplicable to the 1996 through 2002 crops of wheat by sec. 171(a)(1)(A) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996.

Secs. 331 through 339 were made inapplicable to the 1991 through 1995 crops of wheat by sec. 303 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3400, Nov. 28, 1990.

Secs. 331 through 339 were made inapplicable to previous crop years by previous legislation. See p. 6–1 of Volume I—Domestic Agricultural Programs (through P.L. 101–240) and the Agriculture Handbook No. 476 (revised Jan. 1985).

[331–2] *See footnote 331–1.*

Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the Act.

The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.

The provisions of this part affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.

PROCLAMATIONS OF SUPPLIES AND ALLOTMENTS

SEC. 332.[332–1] **[**7 U.S.C. 1332**]** *(a) Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act.*

[332–1] See footnote 331–1.

Sec. 332 was enacted by Pub. L. 87–703, 76 Stat. 620, approved Sept. 27, 1962. For the text of old sec. 332, see Pub. L. 83–690, 68 Stat. 903, approved Aug. 8, 1954. The proclamations were deferred to June 1, 1959, for the crop year of 1960 and July 15, 1962, for the 1963 crop year. For the text of sec. 332 effective for the 1987 through 1990 crops of wheat, see p. 6–2 of Volume I—Domestic Agricultural Programs, through P.L. 101–240.

(b) If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof and (iv) [332–2] *will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 328 of the Food and Agriculture Act of 1962; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the Act: Provided, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: And provided further, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.*

(c) If after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this part by a uniform percentage.

(d) [332–3] *Notwithstanding any other provision of this Act, the Secretary shall not proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966*

[332–2] The language in (iv) was amended, effective beginning with the crop planted for harvest in the calendar year 1966, by Pub. L. 89–321, 79 Stat. 1199, approved Nov. 3, 1965.

[332–3] A new subsec. (d) was added to sec. 332, effective beginning with the crop planted for harvest in the calendar year 1966 by P.L. 89–321, 79 Stat. 1199, Nov. 3 1965. P.L. 88–297, 78 Stat. 178, April 11, 1964, provided that the Secretary shall not proclaim a national marketing quota for the 1965 crop of wheat. The final year of the period was extended from 1969 to 1970 by P.L. 90–559, 82 Stat. 996, Oct. 11, 1968.

through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.

NATIONAL ACREAGE ALLOTMENT

SEC. 333.[333–1] **[**7 U.S.C. 1333**]** *The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.*

APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT

SEC. 334.[334–1] **[**7 U.S.C. 1334**]** *(a) The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 335, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the*

333–1 See footnote 331–1.

334–1 See footnote 331–1. For the text of sec. 334 effective for the 1987 through 1990 crops of wheat, see pp. 6–4 & 6-5 of Volume I—Domestic Agricultural Programs, through P.L. 101–240.

affected area to make such allotments comparable with those on similar farms in the adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allotment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the, three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b)[334–2] *The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967, the increased acreage in the county allotted for 1966 pursuant to section 335, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.*

(c)(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop rotation practices, type of soil, and topography: Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acre-

[334–2] Subsec. (b) of sec. 334 was amended, effective with the crop planted for harvest in the calendar year 1966 by P.L. 89–321, 79 Stat. 1200, Nov. 3, 1965.

age the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959 and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case of any farm which is in compliance with its farm wheat acreage allotment, the acreage diverted under such wheat allotment programs: Provided, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat or the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.

(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.

(3) [334–3] *Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.*

(4) [334–4] *Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: Provided, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be de-*

[334–3] Paras. (3) and (4) were added to subsec. (c) by P.L. 89–321, 79 Stat. 1200, Nov. 3, 1965.

[334–4] See footnote 334–3.

creased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i) any farm on which the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary' to provide fair and equitable treatment to such producers.

[*(d)* [334–5] * * * **]**

(e) [334–6]**[** * * * **]**

(f) [334–7]**[** * * * **]**

(g) [334–8] *Notwithstanding any other provision of law, no acreage in the commercial wheat producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.*

[*(h)* [334–9] * * * **]**

[334–5] Subsec. (d) was repealed by P.L. 89–321, 79 Stat. 1201, approved Nov. 3, 1965, effective with the 1966 crop of wheat. For the text of the repealed subsec., see Agriculture Handbook No. 281.

[334–6] Subsec. (e) was a applicable only with respect to the 1962 and 1963 crops of Durum wheat. It was enacted by P.L. 87–128, 75 Stat. 300, Aug. 8, 1961, which was applicable to the 1962, 1963, and 1964 crops of Durum wheat. However, P.L. 87–703, 76 Stat. 620, Sept. 27, 1962, amended this subsec. to make it applicable only with respect to the 1962 and 1963 crops of Durum wheat.

[334–7] Subsec. (f) was applicable only with respect to the 1955, 1956 and 1957 crops of wheat. It was originally enacted by P.L. 83–690, 68 Stat. 903, Aug. 28, 1954: however, it was applicable only to the 1955 crop of wheat, P.L. 84–540, 70 Stat. 203, May 28, 1956, amended this subsec. to make it applicable with respect to the 1956 and 1957 crops of wheat.

[334–8] Subsec. (g) was originally enacted as subsec. (h). This subsec. was redesignated subsec. for the 1964 and subsequent crops and old subsec. (g) repealed by P.L. 87–703, 76 Stat. 620, Sept. 27, 1962. Redesignated subsec. (g) was amended by P.L. 88–297, 78 Stat. 179, Apr. 11, 1964, which added the phrase, "except 1965" after the word, "thereafter" in the first sentence. It was further amended, effective with the crop planted for harvest in the calendar year 1966, by P.L. 89–321, 79 Stat. 1201, Nov. 3, 1965, which struck out the language "except as prescribed in the provisos to the first sentence of subsections (a) and (b), respectively, of this section" in the first sentence.

[334–9] There is no subsec. (h) for 1964 and subsequent crops. Sec. 331(2) of P.L. 87–703, Sept. 27, 1962, redesignated subsec. (i) (so designated through the 1963 crop) as subsec. (h) for the 1964 and subsequent crops. However, before the redesignation could take place for the 1964 crop year, sec. 1(a) of P.L. 88–64, July 17, 1963, redesignated the same subsec. (i) (so designated through the 1963 crop) as subsec. (j). Therefore, former subsec. (i) now appears as subsec. (j).

(i) 334–10 *If with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of paragraph (6) of Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340(6)), and section 326(b) of this Act, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land use provisions of section 339 shall not be applicable to any farm receiving an increased allotment under this subsection and the producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.*

(j) 334–11 *Notwithstanding any other provision of this Act, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional*

334–10 Subsec. (i) was added by P.L. 87–703, 76 Stat. 620, Sept. 27, 1962.

334–11 The most recent amendment to subsec. (j) came from P.L. 91–220, 84 Stat. 86, Mar. 31, 1970. Subsec. (j) was originally enacted as subsec. (i) by P.L. 85–390, May 1, 1958, effective with respect to the 1958 and 1959 crops. P.L. 86–385, 74 Stat. 4, February 20, 1960, amended this subsec. to make it effective with respect to the 1960 and 1961 crops. P.L. 87–357, 75 Stat. 778, Oct. 4, 1961, made it effective with respect to the 1962 and 1963 crops. It was redesignated subsec. (h) for the 1964 and subsequent crops by P.L. 87–703, 76 Stat. 620, Sept. 27, 1962. However, before the redesignation could take place for the 1964 and subsequent crops, this subsec. was further amended by P.L. 88–64, 77 Stat. 80, July 17, 1963, which redesignated it as subsec. (j) and made it applicable only to privately owned land and increased from eight to twelve thousand acres the total acreage allotment for the area.

allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 379b, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 339.

(k)[334–12] *Notwithstanding any other provision of this Act, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm which it was transferred for the purposes of acreage history credits under this Act.*

[WHEAT DIVERSION PROGRAMS]

[SEC. 327 OF FOOD AND AGRICULTURE ACT OF 1962.[334–13] **[**7 U.S.C. 1339b**]** In the establishment of State, county, and farm acreage allotments for wheat under the Agricultural Adjustment Act of 1938, as amended, the acreage which is determined under regulations of the Secretary to have been diverted from the production of wheat under the special programs formulated pursuant to section 307 of this Act, section 339 of the Agricultural Adjustment Act of 1938, as amended, and section 124 of the Agricultural Act of 1961, shall be credited to the State, county, and farm as though such acreage had actually been devoted to the production of wheat.**]**

COMMERCIAL AREA

SEC. 334a.[334a–1] **[**7 U.S.C. 1334b**]** *If the acreage allotment for any State for any crop of wheat is twenty five thousand acres or less, the Secretary, in order to promote efficient administration of this Act and the Agricultural Act of 1949, may designate such State as outside the commercial wheat producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.*

334–12 Subsec. (k) was added by P.L. 88–297, 78 Stat. 179, Apr. 11, 1964.

334–13 P.L. 87–703, 76 Stat. 605, Sept. 27, 1962.

334a–1 See footnote 331–1. Sec. 334a was added by P.L. 87–703, 76 Stat. 621, Sept. 27, 1962.

MARKETING PENALTIES

SEC. 335.[335–1] [7 U.S.C. 1335] [* * *]

FARM MARKETING QUOTA

[P.L. 74, 77TH CONG.[335–2] [7 U.S.C. 1330, 1340] *That notwithstanding the provisions of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the Act)—*

(1)[335–3] *The farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.*

(2) Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is

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[335–1] Sec. 335 was amended effective only for the 1987 through 1990 crops of wheat by sec. 305 of the Food Security Act of 1985, P.L. 99–198, 99 Stat. 1380, Dec. 23, 1985.

Sec. 335 as it existed prior to the amendment made by sec. 305 of the Food Security Act of 1985, P.L. 99–198, was applicable only to the crops planted for harvest prior to 1967.

[335–2] 55 Stat. 203, May 26, 1941. P.L. 74 is not applicable to corn. See Act of Aug. 28, 1954, P.L. 83–690, 68 Stat. 690, 68 Stat. 905.

P.L. 74 was made inapplicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002 by sec. 171(c) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 938, April 4, 1996, and to the crops of wheat planted for harvest in the calendar years 1991 through 1995 by sec. 304 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3400, Nov. 28, 1990. For legislation making P.L. 74 inapplicable to prior crop years, see p. 11–10 of Agriculture Handbook No. 476, revised Jan. 1985, and p. 6–12 of Volume I—Domestic Agricultural Programs.

[335–3] Para. (1) was amended by P.L. 89–321, 79 Stat. 1205, Nov. 3, 1965, by changing the words "normal yield of wheat per acre established for the farm" to read "projected farm yield".

harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

(3) The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof the difference between the amount of the penalty or storage as computed upon the basis of twice the normal production and as computed upon the basis of actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to him. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed as aforesaid shall be paid by the producer. Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries in such other manner as he shall determine will divert it from the normal channels of trade and commerce.

(4) Until the producers on any farm store, deliver to the Secretary, or pay the penalty on, the farm marketing excess of any crop of wheat, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

(5) The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except depletion resulting from some cause beyond the control of the producer.

(6) Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. The provisions of section 326 (b) and (c) of the Act shall be applicable also to wheat.

(7) Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified in paragraph (2) of this resolution. Such penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty from the price paid to the producer. If the buyer fails to collect such penalty, such buyer and all persons entitled to share in the wheat marketed from the

farm or the proceeds thereof shall be jointly and severally liable for such penalty.

(8)[335–4] **[** * * * **]**

(9)[335–5] **[** * * * **]**

(10) The provisions of this resolution are amendatory of and supplementary to the Act, and all provisions of law applicable in respect of marketing quotas and loans under such Act as so amended and supplemented shall be applicable, but nothing in this resolution shall be construed to amend or repeal section 301(b)(6), 323(b) or 355(d) of the Act.

(11) The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

*(12) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him.***]**

REFERENDUM

SEC. 336.[336–1] **[**7 U.S.C. 1336**]** *If a national marketing quota for wheat for one, two or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 335 to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held.*[336–2] *If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period.*[336–3] *Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after*

[335–4] Para. (8) is not applicable to wheat.

[335–5] Para. (9) was applicable only through the 1946 crop.

[336–1] See footnote 331–1. For the text of sec. 336 effective for the 1987 through 1990 crops of wheat, see p. 6–14 of Volume I—Domestic Agricultural Programs, through P.L. 101–240.

[336–2] This sentence was added by P.L. 89–82, 79 Stat. 258, July 24, 1965. Sec. 332(d) provided that marketing quotas would not be proclaimed for wheat for the years 1966 through 1970.

[336–3] This sentence was added by P.L. 91–455, 84 Stat. 969, Oct. 15, 1970, superseding an interim provision enacted by P.L. 91–348, 84 Stat. 448, July 23, 1970.

adjournment sine die of the first session of the Ninety-ninth Congress.[336–4]

[ADJUSTMENT AND SUSPENSION OF QUOTA]

[SEC. 337.[337–1] * * *]

TRANSFER OF QUOTAS

SEC. 338.[338–1] [7 U.S.C. 1338] *Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.*

LAND USE

SEC. 339.[339–1] [7 U.S.C. 1339] *(a)(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotment for 1966 pursuant to section 335) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 335). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the*

[336–4] The last sentence was substituted for the previous sentence by P.L. 99–63, 99 Stat. 119, July 11, 1985.

[337–1] Sec. 337 was repealed by P.L. 87–703, 76 Stat. 622, Sept. 27, 1962, effective as to the 1964 and subsequent crops.

[338–1] See footnote 331–1. For the text of sec. 338 effective for the 1987 through 1990 crops of wheat, see p. 6–15 of Volume I—Domestic Agricultural Programs, through P.L. 101–240.

[339–1] See footnote 331–1.

amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this subtitle.

(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

(b) [339–2] **[* * *]**

(c) [339–3] **[* * *]**

(d) [339–4] **[* * *]**

(e) [339–5] **[* * *]**

(f) [339–6] **[* * *]**

(g) The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.

(h) [339–7] **[* * *]**

[339–2] Subsecs. (b), (c), (d), (e), (f) and (h) were effective only through the 1970 crop. These provisions may be found at pp. 79–80 of Agriculture Handbook No. 36.

[339–3] See footnote 339–2.

[339–4] See footnote 339–2.

[339–5] See footnote 339–2.

[339–6] See footnote 339–2.

[339–7] See footnote 339–2.

[Part IV was made inapplicable to the 2002 through 2007 crops of cotton.]

PART IV—MARKETING QUOTAS—COTTON [341–1]

LEGISLATIVE FINDINGS

SEC. 341. [341–2] [7 U.S.C. 1341] *American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.*

Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.

The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nation-wide and foreign markets, cannot maintain normal carryovers of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.

It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.

The provisions of this part affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.

[341–1] Part IV was made inapplicable to the 2002 through 2007 crops of cotton by sec. 1602(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002.

Part IV was made inapplicable to the 1996 through 2002 crops of cotton by sec. 171(a)(1)(A) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996.

Secs. 342, 343, 344, 344a, 345, 346, and 377 were made inapplicable to the 1984 and subsequent crops of extra long staple cotton by sec. 3 of the Extra Long Staple Cotton Act of 1983, P.L. 98–88, 97 Stat. 494, Aug. 26. 1983.

Secs. 342, 343, 344, 345, 346 and 377 were made inapplicable to the 1991 through 1995 crops of upland cotton by sec. 502 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3440, Nov. 28, 1990.

[341–2] See footnote 341–1.

NATIONAL MARKETING QUOTA

SEC. 342.[342–1] [7 U.S.C. 1342] *Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: Provided, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustments in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security but the Secretary, in making such adjustments, may not reduce the national marketing quota or any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made.* [* * * [342–2]] *Notwithstanding any other provision of this Act, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.*

[NATIONAL COTTON PRODUCTION GOAL]

SEC. 342a.[342a–1] [7 U.S.C. 1342a] *The Secretary shall, not later than November 15, of the calendar years 1970 through 1976, proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less*

[342–1] See footnote 341–1.

[342–2] Proviso effective only to the 1957 and 1958 crops of cotton has been omitted.

[342a–1] See footnote 341–1. Sec. 342a was added by sec. 601 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1371, Nov. 30, 1970, effective as to 1971, 1972, and 1973 crops. Sec. 1(19) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 233, Aug. 10, 1973, extended sec. 342a through the 1977 crop.

than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.

REFERENDUM

SEC. 343.[343–1] **[**7 U.S.C. 1343**]** *Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 342, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed: Provided, That* **[** ** * ** [343–2]**]** *If more than one third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.*[343–3]

ACREAGE ALLOTMENTS

SEC. 344.[344–1] **[**7 U.S.C. 1344**]** *(a) Whenever a national marketing quota is proclaimed under section 342, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.*

(b) The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreages regarded as having been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions dur-

343–1 See footnote 341–1.
343–2 Proviso effective only as to 1950 crop cotton omitted.
343–3 Sec. 5 of P.L. 99–157, 99 Stat. 818, Nov. 15, 1985, substituted the last sentence for the former sentence.
344–1 See footnote 341–1.

ing such period: Provided, That **[** * * * [344–2] **]** *Provided, That there is hereby established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), as determined by the Secretary without regard to State and count acreage reserves (except that the amount apportioned to Nevada sell be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last provision in subsection (e) shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1).*

(c) [344–3] **[** * * * **]**

(d) [344–4] **[** * * * **]**

(e) The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: Provided, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: Provided further, That **[** * * * [344–5]**]**. *Provided further, That if the additional acreage allocated to a State under the proviso in subsection (b) is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1), the acreage reserved under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), and added to the county acreage*

[344–2] A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

[344–3] Subsec. (c) was applicable only to the 1950 and 1951 crops of cotton.

[344–4] Subsec. (d) was applicable only to the 1952 crop of cotton.

[344–5] A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).

(f) The county acreage allotment, less not to exceed the percentage provided for in paragraph (3) of this subsection shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:

(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.

(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative areas) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugar cane for sugar, sugar beets for sugar, wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice or feeding to livestock for market; or lands determined to be voted primarily to orchards or vineyards, and nonirrigated lands in irrigated area: Provided, however, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.

(3) The county committee may reserve not in excess of 15 per centum of the county allotment **[** ** * ** [344–6] **]** *which, in addition to the acreage made available under the proviso in subsection (e), shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: Provided, That not less than 20 percent of the acreage reserved under this subsection shall, to the extent required, be allotted upon such basis as the Secretary deems fair*

[344–6] Material omitted which does not change 15 per centum maximum.

and reasonable to farms (other than farms to which an allotment has been made under subsection (f)(1)(B), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.

(4) [344–7]

(5) [344–8]

(6) Notwithstanding the provisions of paragraph (2) of this subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three year period: Provided, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: Povided further, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3).

(7)(A) In the event that any farm acreage allotment is less than that prescribed by paragraph (1), such acreage allotment shall be increased to the acreage prescribed by paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.

(B) Notwithstanding any other provision of law—

(i) the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) shall not be taken into account in establishing the acreage allotment for such

[344–7] Paras. (4) and (5) were applicable only to the 1950 crop of cotton.
[344–8] See footnote 344–7.

farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8); and acreage shall be allotted under paragraph (2), (6), or (8) to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8),

(ii) the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and

(iii) the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.

(8) Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: Provided, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985,[344–9] *and the release and reapportionment provisions of subsection (m)(2) of this section) to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for such year, whichever is smaller,*[344–10] *in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for*

[344–9] Sec. 336(b)(2)(A) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 1006, April 4, 1996, amended para. (8) by striking "Great Plains program" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985"..

[344–10] P.L. 88–297, 78 Stat. 177, Apr. 11, 1964, amended the proviso in subpara. (8) by adding the language: "or, in the case of a farm which qualified for price support on the crop produced in such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for such year, whichever is smaller".

the farm pursuant to the provisions of this subsection (f) for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection (f) shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.

(g) Notwithstanding the foregoing provisions of this section—

(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with Public Law 28, Eighty-first Congress.

(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.

[*(3)*[344–11] * * * **]**

[*(h)*[344–12] * * * **]**

(i) Notwithstanding any other provision of this Act, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this Act, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: Provided, however, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.

(j) Notwithstanding any other provision of this Act, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.

(k)[344–13] *Notwithstanding any other provision of this section except subsection (g)(1), there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in any one of the three calendar years immediately preceding the year for which the allotment is made.*

(l)[344–14] **[** * * * **]**

(m) Notwithstanding any other provision of law—

(1) (Applicable only to 1954 crop of cotton.)

[344–11] Para. (3) was repealed by P.L. 86–172, 73 Stat. 394, Aug. 18, 1959.

[344–12] Subsec. (h) was repealed by P.L. 85–835, 72 Stat. 996, Aug. 28, 1958.

[344–13] Subsec. 347(c) of the Act, *infra,* excepts subsec. (k) from the provisions of the Act applicable to extra long staple cotton.

[344–14] Subsec. (*l*), relating to war crops under P.L. 79–12, does not apply to the 1955 and succeeding crops of cotton.

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton, land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: Provided, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 341 of this Act.

(3) [344–15] **[* * *]**

(n) Notwithstanding any other provision of this Act, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for the purpose of acreage history credits under section 344(f)(8), 344(m)(2), and 377 of this Act: Provided, That, notwithstanding the provisions of section 344(m)(2) of this Act, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.

[344–15] Para. (3) was applicable only to the 1954 crop of cotton.

SALES, LEASE AND TRANSFER OF UPLAND COTTON ACREAGE ALLOTMENTS

SEC. 344a. [7 U.S.C. 1344b] *(a)*[344a–1] *Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: Provided, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.*

(b)[344a–2] *Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lien-holder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to*

344a–1 See footnote 341–1. Para. (a) was originally enacted by the Food and Agriculture Act of 1965, P.L. 89–321, 79 Stat. 1197, Nov. 3, 1965. Sec. 601 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1372, Nov. 30, 1970. completely amended (a), effective only with respect to the 1971, 1972, and 1973 crops. This version was made applicable to the 1974 through 1977 crops by sec. 1(19) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 233, Aug. 10, 1973, with the deletion of the words "for which a farm base acreage allotment is established (other than pursuant to section 350(e)(1)(A))", which appeared after the words "operator of a farm".

The 1974–77 version of subsec. (a) reads: "Notwithstanding any other provision of law, the Secretary shall (1) permit the owner and operator of an farm for which a farm base acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm for transfer to such farm; and (2) permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: *Provided,* That any temporary transfer of farm acreage allotment by lease or by owner approved b the county committee to take effect during the period 1966 through 1970 for a term extending beyond 1970 shall be approved pro rata on the basis of the farm base acreage allotment for the farm from which the transfer is made, but no temporary transfer by lease entered into after Mar. 15, 1970, shall he approved for 1978 and subsequent crops."

344a–2 Sec. 601(3) of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1372, Nov. 30, 1970, as amended by sec. 1(19) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 233, Aug. 10, 1973, amended sec. 344a as follows: "(2) subdivisions (ii), (iv), (v), and (vi) of subsection (b), the last sentence of subsection (b) and subsections (e) and (h) shall not be applicable to the 1971 through 1977 crops: *Provided,* That no farm allotment may he sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county."

which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) the cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.

(c) The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: Provided, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.

(d) The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.

(e) [344a–3] *The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.*

(f) The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.

(g) If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.

(h) [344a–4] *The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and oper-*

[344a–3] See footnote 344a–2.
[344a–4] See footnote 344a–2.

ators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.

(i) The provisions of this section relating to cotton shall apply only to upland cotton.

FARM MARKETING QUOTAS

SEC. 345.[345–1] **[**7 U.S.C. 1345**]** *The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: Provided, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.*

PENALTIES; EXPORT MARKET ACREAGE

SEC. 346.[346–1] **[**7 U.S.C. 1346**]** *(a) Whenever farm marketing quotas are in effect with respect to any crop of cotton the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.*

(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 345, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.

(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.

(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producers shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.

(e)[346–2] **[** * * * **]**

345–1 See footnote 341–1.

346–1 See footnote 341–1.

346–2 Subsec. (e) was added by P.L. 89–321, 79 Stat. 1192, Nov. 3, 1965, and amended by P.L. 90–559, 82 Stat. 996, Oct. 11, 1968. As amended, it was applicable only to the

Continued

[EXTRA LONG STAPLE COTTON]

[SEC. 347.[347–1] [7 U.S.C. 1347] * * *]

COTTON EQUALIZATION PAYMENTS

SEC. 348.[348–1] [7 U.S.C. 1348] [* * *]

EXPORT MARKET ACREAGE

SEC. 349.[349–1] [7 U.S.C. 1349] [* * *]

DOMESTIC ACREAGE ALLOTMENTS

SEC. 350.[350–1] [7 U.S.C. 1350] [* * *]

1966 through 1970 crops of cotton. For the full text of subsec. (e), see pp. 92–93 of Agriculture Handbook No. 361.

[347–1] Sec. 347 was repealed beginning with the 1984 crop of extra long staple cotton by sec. 2 of the Extra Long Staple Cotton Act of 1983, P.L. 98–88, 97 Stat. 494, Aug. 26, 1983. For the full text of the repealed sec. see pp. 12–13 to 12–15 of Agriculture Handbook No. 476, as of Mar. 11, 1983.

[348–1] Secs. 348 and 349 were added by the Agricultural Act of 1964, P.L. 88–297, 78 Stat. 173, Apr. 11, 1964. See pp. 115–117 of Agriculture Handbook No. 327. Sec. 348 provided for payments on upland cotton through July 31, 1966. Sec. 349 provided for export market acreage for the 1964 and 1965 crops of upland cotton.

[349–1] See footnote 348–1.

[350–1] Sec. 350 was applicable only through the 1977 crop of upland cotton. For the text, see pp. 12–15 of Agriculture Handbook No. 476. as of Jan. 1, 1981.

[Part V was made inapplicable to the 2002 through 2007 crops of rice.]

PART V—MARKETING QUOTAS—RICE [351–1]

LEGISLATIVE FINDINGS

SEC. 351. [351–2] **[**7 U.S.C. 1351**]** *(a) The marketing of rice constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Rice produced for market is sold on a Nationwide market, and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry, through unions and corporations enjoying Government sanction and protection for joint economic action. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nationwide market.*

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the prices for such commodity with consequent injury and destruction of such commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.

(c) Whenever an abnormally excessive supply of rice exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.

[NATIONAL ACREAGE ALLOTMENT AND ALLOCATION]

[SEC. 352. [352–1] **[**7 U.S.C. 1352**]** * * * **]**

[APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT]

[SEC. 353. [353–1] **[**7 U.S.C. 1353**]** * * * **]**

[351–1] Part V was made inapplicable to the 2002 through 2007 crops of rice by sec. 1602(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002.

Part V was made inapplicable to the 1996 through 2002 crops of rice by sec. 171(a)(1)(A) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996.

[351–2] See footnote 351–1.

[352–1] Repealed by sec. 601, P.L. 97–98, 95 Stat. 1242, Dec. 22, 1981, effective beginning with the 1982 crop of rice. For the text of the repealed secs., see pp. 13–1 through 13–10 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

[353–1] See footnote 352–1.

[MARKETING QUOTAS]

[SEC. 354.[354–1] [7 U.S.C. 1354] * * *]

[AMOUNT OF FARM MARKETING QUOTA]

[SEC. 355.[355–1] [7 U.S.C. 1355] * * *]

[PENALTIES AND STORAGE]

[SEC. 356.[356–1] [7 U.S.C. 1356] * * *]

[PART VI—MARKETING QUOTAS—PEANUTS][357–1]

[354–1] See footnote 352–1.

[355–1] See footnote 352–1.

[356–1] See footnote 352–1.

[357–1] Part VI of subtitle B of title III was repealed by sec. 1309(a)(1) of the Farm Security and Rural Investment Act of 2002, 116 Stat. 179, May 13, 2002. For the text of former part VI, see pp. 5–1 to 5–26 of Agricultural Commodities Laws (as of Dec. 29, 2000).

Sec. 1309(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7959(a)(2)) provides that former part VI shall continue to apply with respect to the 2001 crop of peanuts.

Sec. 1309(f)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7959(f)(1)) requires the Secretary to consider a person to be an eligible quota holder for the purposes of that section (providing compensation) if the person, as of May 13, 2002, owned a farm that was eligible for a permanent peanut quota under former sec. 358–1(b).

PART VII—FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR [359a–1]

SEC. 359a. [7 U.S.C. 1359aa] DEFINITIONS.

In this part:

(1) MAINLAND STATE.—The term "mainland State" means a State other than an offshore State.

(2) OFFSHORE STATE.—The term "offshore State" means a sugarcane producing State located outside of the continental United States.

(3) STATE.—Notwithstanding section 301, the term "State" means—

(A) a State;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

(4) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 359b. [7 U.S.C. 1359bb] FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(a) SUGAR ESTIMATES.—

(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2002 through 2007 crop years, the Secretary shall estimate—

(A) the quantity of sugar that will be consumed in the United States during the crop year;

(B) the quantity of sugar that would provide for reasonable carryover stocks;

(C) the quantity of sugar that will be available from carry-in stocks for consumption in the United States during the crop year;

(D) the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and

(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but no later than the beginning of each of the second through fourth quarters of the crop year.

(b) SUGAR ALLOTMENTS.—

(1) IN GENERAL.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically produced sugarcane at a level that the Secretary estimates will re-

[359a–1] Sec. 1403 of the Farm Security and Rural Investment Act of 2002, 116 Stat. 187, May 13, 2002, amended part VII in its entirety. For the text of former part VII, see pp. 6–1 to 6–12 of Agricultural Commodities Laws (as of Dec. 29, 2000).

sult in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose for human consumption, derived from sugarcane, sugar beets, molasses, or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

(c) PROHIBITIONS.—

(1) IN GENERAL.—During any crop year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

(3) DEFINITION OF MARKET.—For purposes of this part, the term "market" shall mean to sell or otherwise dispose of in commerce in the United States (including the forfeiture of sugar under the loan program for sugar under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) and, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

SEC. 359c. [7 U.S.C. 1359cc] ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) in accordance with this section.

(b) OVERALL ALLOTMENT QUANTITY.—

(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (in this part referred to as the "overall allotment quantity") by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the crop year) for the crop year, as determined under section 359b(a)—

(A) 1,532,000 short tons, raw value; and

(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

(2) ADJUSTMENT.—The Secretary shall adjust the overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

(c) MARKETING ALLOTMENT FOR SUGAR DERIVED FROM SUGAR BEETS AND SUGAR DERIVED FROM SUGARCANE.—The overall allotment quantity for the crop year shall be allotted between—

(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

(d) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—

(1) CANE SUGAR.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

(2) BEET SUGAR.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets.

(e) STATE CANE SUGAR ALLOTMENTS.—

(1) IN GENERAL.—The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 359d(b)(1)(D).

(2) OFFSHORE ALLOTMENT.—

(A) COLLECTIVELY.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

(B) INDIVIDUALLY.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

(3) MAINLAND ALLOTMENT.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under sub-

section (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

(g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(c), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) CARRY-OVER OF REDUCTIONS.—Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

(h) SUSPENSION OF ALLOTMENTS.—Whenever the Secretary estimates or reestimates under section 359b(a), or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent) (excluding any imports attributable to reassignment under paragraph (1)(D) or (2)(C) of section 359e(b)), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).

SEC. 359d. [7 U.S.C. 1359dd] ALLOCATION OF MARKETING ALLOTMENTS.

(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(b) HEARING AND NOTICE.—

(1) CANE SUGAR.—

(A) IN GENERAL.—The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 359c(g).

(B) MULTIPLE PROCESSOR STATES.—Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

(C) TALISMAN PROCESSING FACILITY.—In the case of allotments under subparagraph (B) attributable to the operations of the Talisman processing facility before the date of enactment of this subparagraph, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

(D) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

(ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

(E) NEW ENTRANTS.—

(i) IN GENERAL.—Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this subparagraph, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

(ii) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

(iii) LIMITATIONS.—The allotment for a new processor under this subparagraph shall not exceed—

(I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and

(II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this

subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

(iv) NEW ENTRANT STATES.—

(I) IN GENERAL.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

(II) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

(v) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

(vi) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

(vii) PROHIBITION.—Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

(F) TRANSFER OF OWNERSHIP.—Except as otherwise provided in section 359f(c)(8), if a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

(2) BEET SUGAR.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced

by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted average quantities of beet sugar produced by all processors (as so determined).

(C) WEIGHTED AVERAGE QUANTITY.—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;

(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

(D) ADJUSTMENTS.—

(i) IN GENERAL.—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

(ii) QUANTITY.—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted weighted

average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each molasses desugarization facility that is constructed by the processor; and

(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph).

(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

(i) eliminate the allocation of the processor provided under this section; and

(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

(i) IN GENERAL.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold factory or factories to the total allocation of the seller.

(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

(I) during the remainder of the crop year during which the sale described in clause (i) occurs (referred to in this subparagraph as the "initial crop year"); and

(II) each subsequent crop year (referred in this subparagraph as a "subsequent crop year"), subject to clause (iii).

(iii) SUBSEQUENT CROP YEARS.—

(I) IN GENERAL.—The assignment of the allocation under clause (i) shall apply during each subsequent crop year unless the acquired factory or factories continue in operation for less than the initial crop year and the first subsequent crop year.

(II) REASSIGNMENT.—If the acquired factory or factories do not continue in operation for the complete initial crop year and the first subsequent crop year, the Secretary shall reassign the temporary allocation to other processors of beet sugar on a pro rata basis.

(iv) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the transferred allocation to the buyer for the purchased factory or factories cannot be filled by the production of the purchased factory or factories for the initial crop year or a subsequent crop year, the remainder of the transferred allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

(H) NEW ENTRANTS STARTING PRODUCTION OR REOPENING FACTORIES.—

(i) IN GENERAL.—Except as provided by clause (ii), if an individual or entity that does not have an allocation of beet sugar under this part (referred to in this paragraph as a "new entrant") starts processing sugar beets after the date of enactment of this subparagraph, or acquires and reopens a factory that produced beet sugar during previous crop years that (at the time of acquisition) has no allocation associated with the factory under this part, the Secretary shall—

(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar; and

(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

(ii) EXCEPTION.—If a new entrant acquires and reopens a factory that previously produced beet sugar from sugar beets and from sugar beet molasses but the factory last processed sugar beets during the 1997 crop year and the new entrant starts to process sugar beets at such factory after the date of enactment of this clause, the Secretary shall—

(I) assign an allocation for beet sugar to the new entrant that is not less than the greater of 1.67 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years as determined under subsection (b)(2)(C), or 1,500,000 hundredweights; and

(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

(I) NEW ENTRANTS ACQUIRING ONGOING FACTORIES WITH PRODUCTION HISTORY.—If a new entrant acquires a factory that has production history during the period of the 1998 through 2000 crop years and that is producing beet sugar at the time the allocations are made from a processor that has an allocation of beet sugar, the Secretary shall transfer a portion of the allocation of the seller to the new

entrant to reflect the historical contribution of the production of the sold factory to the total allocation of the seller.

SEC. 359e. [7 U.S.C. 1359ee] REASSIGNMENT OF DEFICITS.

(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

(b) REASSIGNMENT OF DEFICITS.—

(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the crop year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary deter-

mines that such sales would have a significant effect on the price of sugar; and

(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

SEC. 359f. [7 U.S.C. 1359ff] PROVISIONS APPLICABLE TO PRODUCERS.

(a) PROCESSOR ASSURANCES.—

(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories.

(2) ARBITRATION.—

(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.

(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

(i) commenced not more than 45 days after the request; and

(ii) completed not more than 60 days after the request.

(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

(4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

(c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

(1) IN GENERAL.—

(A)[359f–1] STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and

[359f–1] Sec. 207(d) of division N of P.L. 108–7, 117 Stat. 11, Feb. 20, 2003, restricts hurricane assistance provided under that sec. to a State described in this subpara. in which a qualifying natural disaster declaration was made during calendar year 2002.

there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 359c(g).

(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the

farm in the 2 highest of the 1999, 2000, and 2001 crop years.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(5) VIOLATION.—

(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(6) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(7) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

(8) PROCESSING FACILITY CLOSURES.—

(A) IN GENERAL.—If a sugarcane processing facility subject to this subsection is closed and the sugarcane growers that delivered sugarcane to the facility prior to closure elect to deliver their sugarcane to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

(B) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver the sugarcane, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

(C) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

(D) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

SEC. 359g. [7 U.S.C. 1359gg] SPECIAL RULES.

(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f(c), the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established or adjusted for a farm under section 359f(c), on the same basis as the initial allocation or proportionate share was required to be established.

(d) TRANSFERS OF MILL ALLOCATIONS.—

(1) TRANSFER AUTHORIZED.—A producer in a proportionate share State, upon written consent from all crop-share owners (or the representative of the crop-share owners) of a farm, and from the processing company holding the applicable allocation for such shares, may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

(2) ALLOCATION ADJUSTMENT.—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on the product of—

(A) the number of acres of proportionate shares being transferred; and

(B) the State's per acre yield goal established under section 359f(c)(3).

SEC. 359h. [7 U.S.C. 1359hh] REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.

(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part.

(b) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

(1) JURISDICTION OF COURTS.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

(2) UNITED STATES ATTORNEYS.—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

SEC. 359i. [7 U.S.C. 1359ii] APPEALS.

(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f, by any person adversely affected by reason of any such decision.

(b) PROCEDURE.—

(1) NOTICE OF APPEAL.—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely af-

fected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

(c) SPECIAL APPEAL PROCESS REGARDING BEET SUGAR ALLOCATIONS.—

(1) APPEAL AUTHORIZED.—Beginning after the 2006 crop year, a processor that has an allocation of the beet sugar allotment under this part (referred to in this subsection as a "petitioner") may file a notice of appeal with the Secretary regarding the petitioner's beet sugar allocation. Except as provided in paragraph (2), the Secretary shall consider the appeal if the notice alleges that any processor that has a beet sugar allocation has failed to fill at least 82.5 percent of its allocation of the beet sugar allotment with sugar produced by it or received from the Commodity Credit Corporation in 2 out of the 3 crop years preceding the crop year in which the appeal is filed. A processor that is alleged to have failed to fill at least 82.5 percent of its allocation shall be allowed to fully participate in the appeal.

(2) EXCEPTIONS.—An appeal under paragraph (1) shall not be based on the failure of a processor to fill at least 82.5 percent of its allocation because of drought, flood, hail, or other weather disaster, as determined by the Secretary. The determination by the Secretary shall not require a formal disaster declaration.

(3) RESPONSE TO APPEAL.—Upon the petitioner making an appeal to the Secretary, and upon a review by the Secretary of how processors have filled their allocations, the Secretary may—

(A) assign an increased allocation for beet sugar to the petitioner that provides a fair and equitable distribution of the allocations for beet sugar, taking into account—

(i) production history during the period beginning on April 4, 1996, and through the date of enactment of the Farm Security and Rural Investment Act of 2002;

(ii) capital investment during that period;

(iii) increases in United States sugar consumption; and

(iv) the ability or inability of processors to fill the allocations they have received under this part; and

(B) reduce, correspondingly, the allocation for beet sugar of each processor determined to have failed to fill at least 82.5 percent of its allocation of the beet sugar allotment as described in paragraph (1).

(4) FILING DEADLINE.—For purposes of the filing deadline specified in subsection (b)(1), the 20-day period shall commence on the date on which the Secretary announces the allocations for the subsequent crop year or October 1, whichever is earlier.

SEC. 359j. [7 U.S.C. 1359jj] ADMINISTRATION.

(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this part.

SEC. 359k. [7 U.S.C. 1359kk] REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.

(a) IN GENERAL.—Notwithstanding any other provision of law, on or after June 1 of each of the 2002 through 2007 calendar years, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that crop year, and may reallocate the unused quota for that crop year among qualified supplying countries.

(b) QUALIFIED SUPPLYING COUNTRY DEFINED.—In this section, the term "qualified supplying country" means one of the following foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina
Australia
Barbados
Belize
Bolivia
Brazil
Colombia
Republic of the Congo
Costa Rica
Dominican Republic
Ecuador
El Salvador
Fiji
Gabon
Guatemala
Guyana
Haiti
Honduras
India
Cote D'Ivoire, formerly known as the Ivory Coast
Jamaica
Madagascar
Malawi
Mauritius
Mexico
Mozambique
Nicaragua
Panama
Papua New Guinea
Paraguay
Peru
Philippines
St. Kitts and Nevis
South Africa
Swaziland
Taiwan
Thailand
Trinidad-Tobago
Uruguay
Zimbabwe.

SUBTITLE C—ADMINISTRATIVE PROVISIONS

PART I—PUBLICATION AND REVIEW OF QUOTAS

APPLICATION OF PART

SEC. 361. [7 U.S.C. 1361] This part shall apply to the publication and review of farm marketing quotas established for tobacco, corn, wheat, cotton, [361–1] and rice, established under subtitle B.

PUBLICATION AND NOTICE OF QUOTA

SEC. 362. [7 U.S.C. 1362] All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

REVIEW BY REVIEW COMMITTEE

SEC. 363. [7 U.S.C. 1363] Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 362, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

REVIEW COMMITTEE

SEC. 364. [7 U.S.C. 1364] The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.

INSTITUTION OF PROCEEDINGS

SEC. 365. [7 U.S.C. 1365] If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of the State having general jurisdiction, sitting in the county or the district in which his farm

[361–1] Sec. 1309(h)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 181, May 13, 2002, amended this sec. by striking "peanuts,".

is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

COURT REVIEW

SEC. 366. [7 U.S.C. 1366] The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearings before the review committee and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court.[366–1] The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

STAY OF PROCEEDINGS AND EXCLUSIVE JURISDICTION

SEC. 367. [7 U.S.C. 1367] The commencement of judicial proceedings under this part shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this part to review the legal validity of a determination made by a review committee pursuant to this part shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this part.

NO EFFECT ON OTHER QUOTAS

SEC. 368. [7 U.S.C. 1368] Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this part, the marketing quotas for other farms shall not be affected.

366–1 "The court" substituted for "At the earliest convenient time, the court, in term time or vacation" by sec. 402(6) of P.L. 98–620, 98 Stat. 3357, Nov. 8, 1984.

PART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

GENERAL ADJUSTMENTS OF QUOTAS

SEC. 371. [7 U.S.C. 1371] (a) If at any time the Secretary has reason to believe that in the case of cotton, rice,[371–1] or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal to the normal supply.

(b) If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice,[371–2] or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota or acreage allotment for the commodity shall be increased in the same ratio.

[(d)[371–3] * * *]

PAYMENT AND COLLECTION OF PENALTIES

SEC. 372. [7 U.S.C. 1372] (a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in subtitle B shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as provided in section 320B, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.[372–1]

[371–1] Sec. 1309(h)(2)(A) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (a) by striking "peanuts,".

[371–2] Sec. 1309(h)(2)(B) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (b) by striking "peanuts".

[371–3] Repealed by the Agricultural Act of 1954, P.L. 83–690, 68 Stat. 905, Aug. 28, 1954.

[372–1] Sec. 1106(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99–272, 100 Stat. 91, Apr. 7, 1986, substituted "Except as provided in section 320B, the" for "the" effective for the 1986 and subsequent crops of tobacco.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this Act, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and that the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations, prescribed by the Secretary of the Treasury, such amounts as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of the law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) hereof by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.[372–2]

REPORTS AND RECORDS

SEC. 373. [7 U.S.C. 1373] (a) This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice,[373–1] or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice,[373–1] or tobacco from producers, and[373–2] all persons engaged in the business of redrying, prizing, or stemming tobacco for producers.[373–3] Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this title. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a mis-

372–2 This sentence was added by the Act of July 7, 1979, P.L. 96–31, 93 Stat. 81.

373–1 Sec. 1309(h)(3)(A)(i) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (a) by striking "peanuts," each place it appears.

373–2 Sec. 1309(h)(3)(A)(ii) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (a) by inserting "and" after "from producers,".

373–3 Sec. 1309(h)(3)(A)(iii) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (a) by striking "for producers, all" and all that follows through the period at the end of the sentence and inserting "for producers.". For the previous text, see pp. 6–17 of Agricultural Commodities Laws (as of Dec. 29, 2000).

demeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

(b) Farmers engaged in the production of corn, wheat, cotton, rice,[373–4] or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this title.

(c)[373–5] All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this title. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

MEASUREMENT OF FARMS AND REPORT OF PLANTINGS

SEC. 374. [7 U.S.C. 1374] (a)[374–1] The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)[374–2] to be taken into account for classifying the acreage planted to cotton and the area skipped.[374–3]

[373–4] Sec. 1309(h)(3)(B) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended subsec. (b) by striking "peanuts,".

[373–5] The last sentence of subsec. (c) was added by sec. 304 of the No Net Cost Tobacco Program Act of 1982, P.L. 97–218, 96 Stat. 214, July 20, 1982.

[374–1] Sec. 374(a) was amended by P.L. 89–321, 79 Stat. 1210, approved Nov. 3, 1985.

[374–2] This parenthetical was added by sec. 116(2)(A) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1840, Dec. 13, 1991.

[374–3] This sentence was added to sec. 374(a) by sec. 1(25) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 236, Aug. 10, 1973. Sec. 605 of the Food and Agriculture Act of 1977, P.L. 95–113, 91 Stat. 940, Sept. 29, 1977, substituted "1981"

For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.[374–4]

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c)[374–5] The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

REGULATIONS

SEC. 375. [7 U.S.C. 1375] (a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this title.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this title.

COURT JURISDICTION

SEC. 376. [7 U.S.C. 1376] The several district courts of the United States are hereby vested with jurisdiction specifically to enforce the provisions of this title. If and when the Secretary shall so

for "1977". Sec. 505 of the Agriculture and Food Act of 1981, P.L. 97–98, 95 Stat. 1241, Dec. 22, 1981, substituted "1985" for "1981". Sec. 505 of the Food Security Act of 1985, P.L. 99–198, 99 Stat. 1418, Dec. 23, 1985, substituted "1990 crops" for "1985 crops". Sec. 504 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3440, Nov. 28, 1990, substituted "1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped" for "1990 crops".

374–4 This sentence was added by sec. 116(2)(B) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1840, Dec. 13, 1991.

374–5 Sec. 374(c) was amended by P.L. 89–321, 79 Stat. 1210, Nov. 3, 1965, to delete the first sentence thereof.

request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this title. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 349 of this title.

PRESERVATION OF UNUSED ACREAGE ALLOTMENTS

[Sec. 377 is inapplicable to the 1984 and subsequent crops of extra long staple cotton and to the 2002 through 2007 crops of upland cotton.]

SEC. 377.[377–1] *[7 U.S.C. 1377] In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 344) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: Provided, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years an acreage equal to 75 per centum or more of the farm acreage allotment for such year [* * * *]*[377–2] *or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985):*[377–3] *Provided further, That this section shall not be applicable in any case,*

[377–1] *Sec. 377 was made inapplicable to the 1984 and subsequent crops of extra long staple cotton by sec. 3 of the Extra Long Staple Cotton Act of 1983, P.L. 98–88 Stat. 494, Aug. 26, 1983; to the 1991 through 1995 crops of upland cotton by sec. 502 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3440, Nov. 28, 1990; to the 1996 through 2002 crops of upland cotton by sec. 171(a)(1)(G) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996; and to the 2002 through 2007 of upland cotton by sec. 1602(a)(2) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002. For legislation making sec. 377 inapplicable to prior crop years, see footnote on p. 16–5 of the Agriculture Handbook No. 476, revised Jan. 1985, and p. 11–4 of the Volume I—Domestic Agricultural Programs, through P.L. 101–240..*

[377–2] *A provision as to peanuts added by sec. 806 of the Food and Agriculture Act of 1977, P.L. 95–113, 91 Stat. 947, Sept. 29, 1977, effective for the 1978–81 crops of peanuts, has been omitted.*

[377–3] *Sec. 336(b)(2)(A) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104–127, 110 Stat. 1006, April 4, 1996, amended para. (8) by striking "Great Plains program" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".*

within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this title pertaining to the release and reapportionment of acreage allotments.

[TRANSFER OF ACREAGE ALLOTMENTS AND FEED GRAIN BASES ON STATE FARMS]

[SEC. 706 OF FOOD AND AGRICULTURE ACT OF 1965.[377–4] [7 U.S.C. 1305] Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to the Agricultural Adjustment Act of 1938, as amended, or section 16 of the Soil Conservation and Domestic Allotment Act, as amended,[377–5] from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided,* That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfer are not fulfilled.[377–6]]

EMINENT DOMAIN

SEC. 378.[378–1] [7 U.S.C. 1378] (a) Notwithstanding any other provision of this Act, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency

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377–4 P.L. 89–321, 79 Stat. 1210, Nov. 3, 1965.

377–5 The words "or the Agricultural Act of 1949, as amended" were added at this point by sec. 405 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1366, Nov. 30, 1970, effective with respect to the 1971, 1972, and 1973 crops of wheat. Sec. 1(12) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 229, Aug. 10, 1973, made this change also applicable to the 1974 through 1977 crops.

377–6 Provisions that the term "acreage allotments", as used in this sec., included upland cotton farm base acreage allotments and wheat domestic allotments were added at the end of this sec. by secs. 405 and 606 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1366, 1378, Nov. 30, 1970, effective with respect to the 1971, 1972, and 1973 crops. The Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 229, 235, Aug. 10, 1973, repealed the wheat provision and continued the cotton provision through the 1977 crop.

378–1 Sec. 378 was added by sec. 501 of the Agriculture Act of 1958, P.L. 85–835, 72 Stat. 995, Aug. 28, 1958. Sec. 501 also repealed secs. 313(h), 334(d), 344(h), 353(f), and 358(h) of the Agricultural Adjustment Act of 1938, as amended, and provided that any transfer or reassignment of allotment heretofore made under the provisions of these secs. shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed secs. shall not be eligible for additional allotment under sec. 378(a) because of such displacement.

having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owners so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: [378–2] *Provided,* That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotment shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where paragraph (c) requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided,* That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further,* That if a former owner has been displaced prior to the effective date of this amendment and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from the effective date of this amendment such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the produc-

[378–2] The second sentence of sec. 378(a) was amended to substitute new language for previous language by Pub. L. 92–354, 86 Stat. 499, approved July 26, 1972.

tion of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report.

(c) This section shall not be applicable, in the case of cotton and[378–3] tobacco,[378–4] to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

(d)[378–5] [* * *]

(e)[378–6] [* * *]

(f)[378–7] In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 319 of this Act, the words "allotment" and "acreage", wherever they appear, shall be construed to mean "marketing quota" and "poundage", respectively, as required.

RECONSTITUTION OF FARMS

SEC. 379.[379–1] [7 U.S.C. 1379] (a) In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

[378–3] Sec. 1309(h)(4)(A) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (c) by striking "cotton," and inserting "cotton and".

[378–4] Sec. 1309(h)(4)(B) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 182, May 13, 2002, amended the first sentence of subsec. (c) by striking "and peanuts,".

[378–5] Subsecs. (d) and (e) were effective only for the 1971–1977 crops. For the text of these provisions, see p. 16–8 of Agriculture Handbook No. 476, as of Jan. 1, 1981.

[378–6] See footnote 378–5.

[378–7] Subsec. 378(f) was added by P.L. 92–10, 85 Stat. 26, Apr. 14, 1971.

[379–1] Sec. 379 was added by sec. 707 of the Food and Agriculture Act of 1965, P.L. 89–321, 79 Stat. 1211, Nov. 3, 1965. It was amended by sec. 212(b) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1149, Nov. 29, 1983 by redesignating the sec. as subsec. "a" and adding subsec. "b".

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period; [379–2]

(5) the parent farm is divided among heirs in settling an estate; or [379–3]

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco. [379–4]

(b) [379–5] In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if (1) a Burley or flue-cured [379–6] tobacco poundage quota is established for one or more of such tracts, and (2) the relevant county committees determine that such tracts will be operated as a single farming unit.

(c) [379–7] When a farm is divided through reconstitution, the burley tobacco poundage quota which transfers with the divided land shall not be less than 1,000 pounds (except when the reconstitution of the farm is among immediate family members or pursuant to probate proceedings).

[VOLUNTARY RELINQUISHMENT OF ALLOTMENTS]

[SEC. 803 OF AGRICULTURAL ACT OF 1970 [379–7] [16 U.S.C. 590q–2] Notwithstanding any other provision of law, the Secretary may provide for the reduction or cancellation of any allotment or

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[379–2] Sec. 116(3)(A) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1841, Dec. 13, 1991, struck "or" at the end of para. (4).

[379–3] Sec. 116(3)(B) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1841, Dec. 13, 1991, struck the period at end of para. (5) and inserted "; or".

[379–4] The provisions "The term 'acreage allotments' as used in this sec. includes the farm base acreage allotments for upland cotton. The term 'acreage allotments' as used in this sec. includes the domestic allotment for wheat," were added at the end of this sec. by Secs. 404 and 605 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1378, Nov. 30, 1970, effective only with respect to the 1971, 1972, and 1973 crops. Sec. 1(11) and sec. 1(22) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 235, Aug. 10, 1973, made them also applicable through the 1977 crop. Sec. 116(3)(C) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1841, Dec. 13, 1991, struck "; or" at the end of para. (6) and inserted a period.

[379–5] Subsec. (b) was added by sec. 212(b) of the Dairy and Tobacco Adjustment Act of 1983, P.L. 98–180, 97 Stat. 1149, Nov. 29, 1983.

[379–6] Sec. 803(c)(6)(C) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; P.L. 106–78; 113 Stat. 1176; Oct. 22, 1999) amended this subsec. by inserting "or flue-cured" after "Burley".

[379–7] Sec. 2(c) of the Farm Poundage Quota Revisions Act of 1990, P.L. 101–577, 104 Stat. 2856, Nov. 15, 1990, added former para. (7) of subsec. (a) and made conforming amendments to paras. (5) and (6) of subsec. (a). Sec. 116(3)(D) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, P.L. 102–237, 105 Stat. 1841, Dec. 13, 1991, redesignated para. (7) as subsec. (c), moved such subsection to appear after subsec. (b), and conformed the left margin of such subsec. to subsec. (b).

[379–7] P.L. 91–524, 84 Stat. 1381, Nov. 30, 1970.

base when the owner of the farm states in writing that he has no further use of such allotment or base.]

[Subtitle D was made inapplicable to the 2002 through 2007 crops of wheat.]

SUBTITLE D—WHEAT MARKETING ALLOCATION [379a–1]

LEGISLATIVE FINDINGS

SEC. 379a. [379a–2] *[7 U.S.C. 1379a] Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for nonagricultural products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this subtitle.*

WHEAT MARKETING ALLOCATION

SEC. 379b.[379b–1] *[7 U.S.C. 1379b] During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this subtitle. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this subtitle, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by*

[379a–1] *Subtitle D was added by sec. 324 of the Food and Agriculture Act of 1962, P.L. 87–703, 76 Stat. 626, Sept. 27, 1962.*

Subtitle D was made inapplicable to the 2002 through 2007 crops of wheat by sec. 1602(a)(3) of the Farm Security and Rural Investment Act of 2002, P.L. 107–171, 116 Stat. 212, May 13, 2002.

Subtitle D was made inapplicable to the 1996 through 2002 crops of wheat by sec. 171(a)(1)(H) of the Agricultural Market Transition Act, P.L. 104–127, 110 Stat. 937, April 4, 1996.

Secs. 379b and 379c were made inapplicable to the 1991 through 1995 crops of wheat by sec. 303 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3400, Nov. 28, 1990.

For prior legislation making secs. 379b and 379c inapplicable to prior crops, see Volume I—Domestic Agricultural Programs (through P.L. 101–240) and Agriculture Handbook No. 476 (revised Jan. 1985).

[379a–2] *See footnote 379a–1.*

[379b–1] *See footnote 379a–1. Sec. 379b, which was added by P.L. 87–703 76, Stat. 626, Sept. 27, 1962, has been amended a number of times.*

multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a non-commercial wheat-production area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.

MARKETING CERTIFICATES

SEC. 379c.[379c–1] *[7 U.S.C. 1379c] (a) The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under section 379c(b) or to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom; except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable. The Secretary shall, in accordance with such regulation as he may prescribe, provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States. The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster shall be deemed by the Secretary to be an actual acreage of wheat planted for harvest for purposes of this subsection, provided such acreage is not subsequently planted to any other price supported crop for 1965. An acreage on the farm not planted to wheat because of drought, flood, or other natural disaster*

[379c–1] *See footnote 379a–1. Sec. 379c, which was originally enacted by the Food and Agriculture Act of 1962, P.L. 87–703, 76 Stat. 627, Sept. 27, 1962, has been amended a number of times.*

shall be deemed to be an actual acreage of wheat planted for harvest for purposes of this subsection provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 per centum of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.

(b) [379c–2] *No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 339 to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm if such farm is exempt from the farm market quota for such crop under section 335. [* * *] Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of this Act, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.*

(c) [379c–3] *The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).*

(d) Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(e) [379c–4] *In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this Act preclude the issuance of marketing certificates, the*

[379c–2] *The omitted language was effective only with respect to the crops planted for harvest in the calendar years 1965 through 1970. It may be found at pp. 124–25 of Agriculture Handbook No. 361. The last two sentences were added by the Food and Agriculture Act of 1965, P.L. 89–321, 79 Stat. 1204, Nov. 3, 1965.*

[379c–3] *Subsec. (c) has been amended by P.L. 88–297, 78 Stat. 181, Apr. 11, 1964, and P.L. 89–321, 79 Stat. 1206. Nov. 3, 1965.*

[379c–4] *Subsec. (e) was added by P.L. 89–321, 79 Stat. 1206, Nov. 3, 1965.*

Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

MARKETING RESTRICTIONS

SEC. 379d.[379d–1] *[7 U.S.C. 1379d] (a) Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.*

(b)[379d–2] *During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export market certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation shall be deemed to*

379d–1 *See footnote 379a–1. Secs. 379d through 379j relating to marketing certificate requirements for wheat processors and exporters were made inapplicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996, by sec. 302 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624, 104 Stat. 3400, Nov. 28, 1990. These secs. were enacted by P.L. 87–703, 76 Stat. 627, Sept. 27, 1962. For similar legislation covering prior crops, see footnote on p. 17–4 of Agriculture Handbook No. 476, revised Jan. 1985, and on p. 12–3 of Volume I—Domestic Agricultural Programs, through P.L. 101–240.*

379d–2 *The first sentence of subsec. (b) was amended by sec. 403 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1366, Nov. 30, 1970, effective only with respect to the 1971, 1972, and 1973 marketing years, to delete the words "During any marketing year for which a wheat marketing allocation program is in effect," and substitute the words "During each marketing year,". This sentence was previously amended by P.L. 88–297, 78 Stat. 181, Apr. 11, 1964.*

The second sentence of subsec. (b) was amended by P.L. 89–321, 79 Stat. 1205, Nov. 3, 1965. The third, fourth, and fifth sentences were also added by P.L. 89–321, 79 Stat. 1202, and were effective upon the enactment of P.L. 89–321. The tenth sentence was also added by P.L. 89–321, 79 Stat. 1203.

have been exported for purposes of this subsection when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year. Notwithstanding [379d–3] *the foregoing, the Secretary is authorized, to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974.*

(c) Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

(d) [379d–4] *As used in this subtitle, the term "food products" means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 379f of the Agricultural Adjustment Act of 1938, even though certificates had been surrendered on the basis of the weight of the wheat.*

[379d–3] *This final sentence was added by sec. 403 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1366, Nov. 30, 1970, effective only with respect to the marketing years beginning July 1, 1971, 1972, and 1973.*

[379d–4] *Sec. 379d(d) was amended by subsec. 504 of P.L. 89–321, 79 Stat. 1202, Nov. 3, 1965, by inserting after the word "flour" the language "(excluding flour second clears not used for human consumption as determined by the Secretary)" and by adding the last two sentences in said subsec. Sec. 504 of the Food and Agriculture Act of 1965, P.L. 89–321, 79 Stat. 1203, Nov. 3, 1965, also provides that: "This subsection shall be effective as to products sold, or removed for sale or consumption on or after sixty days following enactment of this Act, unless the Secretary shall by regulation designate an earlier effective date within such sixty day period."*

ASSISTANCE IN PURCHASE AND SALE OF MARKETING CERTIFICATES

SEC. 379e.[379e–1] *[7 U.S.C. 1379e] For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it. Notwithstanding*[379e–2] *any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1966 through the 1970*[379e–3] *wheat crops to persons engaged in the processing of food products at the face value thereof less any amount which price support for wheat accompanied by domestic certificates exceeds $2 per bushel. Notwithstanding*[379e–4] *any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but in determining the cost to processors the face value shall be 75 cents per bushel.*

CONVERSION FACTORS

SEC. 379f.[379f–1] *[7 U.S.C. 1379f] The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.*

AUTHORITY TO FACILITATE TRANSITION

SEC. 379g.[379g–1] *[7 U.S.C. 1379g] (a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this subtitle. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited, to the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this subtitle from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may*

[379e–1] *See footnote 379d–1.*

[379e–2] *Sec. 379e was amended by P.L. 89–321, 79 Stat. 1206, Nov. 3, 1965, by adding this sentence.*

[379e–3] *The final year of the period was extended from 1969 to 1970 by P.L. 90–559, 82 Stat. 996, Oct. 11, 1968.*

[379e–4] *This final sentence was added by sec. 403 of the Agricultural Act of 1970, P.L. 91–524, 84 Stat. 1366, Nov. 30, 1970, effective only with respect to the marketing years beginning July 1, 1971, 1972, and 1973.*

[379f–1] *See footnote 379d–1.*

[379g–1] *See footnote 379d–1. Sec. 379g was amended by P.L. 89–321, 79 Stat. 1203, Nov. 3, 1965, by inserting "(a)" after "Sec. 379g" and adding a new subsec. (b). Subsec. (c) was added to sec. 379g by sec. 1(10) of the Agriculture and Consumer Protection Act of 1973, P.L. 93–86, 87 Stat. 228, Aug. 10, 1973.*

determine. Any such certificate shall be issued by Commodity Credit Corporation.

(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.

(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.

REPORTS AND RECORDS

SEC. 379h.[379h–1] *[7 U.S.C. 1379h] This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subtitle. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.*

PENALTIES

SEC. 379i.[379i–1] *[7 U.S.C. 1379i] (a) Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 379d of this Act shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such*

[379h–1] *See footnote 379d–1.*

[379i–1] *See footnote 379d–1. Subsecs. (a) and (b) were amended by P.L. 89–321, 79 Stat. 1205, Nov. 3, 1965, by inserting after the word "who", wherever it appears, the word "knowingly", effective as of the original date of the enactment of sec. 379i.*

violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provision of this subtitle, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 379h shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this subtitle, or of any regulation governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 379h shall, (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.

(d) Any persons who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

REGULATIONS

SEC. 379j.[379j–1] **[***7 U.S.C. 1379j***]** *The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.*

[379j–1] *See footnote 379d–1.*

SUBTITLE E—RICE CERTIFICATES

[RICE CERTIFICATES]

[SEC. 380a–380p. Effective only as to the 1957–58 rice crops.]

SUBTITLE F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

PART I—MISCELLANEOUS

COTTON PRICE ADJUSTMENT PAYMENTS

SEC. 381. [7 U.S.C. 1381] (a) [Applicable only to the 1937 crop of cotton.]

(b) [Applicable only to the 1937 crop of cotton.]

(c)[381–1] [* * *]

EXTENSION OF 1937 COTTON LOAN

SEC. 382. [7 U.S.C. 1382] [Applicable only to the 1937 crop of cotton.]

INSURANCE OF COTTON AND RECONCENTRATION OF COTTON

SEC. 383. [7 U.S.C. 1383] (a) The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bona fide residents of and doing business in the State where the cotton is warehoused: *Provided,* That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

(b) Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

[RECONCENTRATION OF COTTON]

[ACT OF JUNE 16, 1938.[383–1] [7 U.S.C. 1383a] In the administration of section 383(b) of the Agricultural Adjustment Act of 1938 the written consent of the producer or borrower to the reconcentration of any cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not be deemed to have been given unless such consent shall have been given in an instrument made solely for that purpose. Notwithstanding any provision of any loan agreement heretofore made, no cotton held under any such agreement as security for any such loan shall be moved from one warehouse to another unless the written consent of the producer or borrower shall have been obtained in a separate instrument given solely for that purpose, as required by this Act. The giving of written consent for the reconcentration of cotton shall not be made a condition upon the making of any loan hereafter made or arranged for by the Commodity Credit Corporation: *Provided, however,* That in cases where there is congestion and lack of storage facilities, and the local warehouse certifies such fact and requests the Commodity Credit Corporation to move the cotton for reconcentration to some other point, or when the Commodity Credit Corporation determines such loan cotton is improperly warehoused and subject to damage, or if uninsured, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere, and the local warehouse, after notice, declines to reduce such charges, such written consent as provided in this amendment need not be obtained; and consent to movement

[381–1] Repealed by the Agricultural Act of 1948, P.L. 80–897, 62 Stat. 1255, July 3, 1948.
[383–1] P.L. 660, 75th Cong., 52 Stat. 762.

under any of the conditions of this proviso may be required in future loan agreements.]

[REPORT OF BENEFITS]

[SEC. 384.[384–1] [7 U.S.C. 1384] * * *]

FINALITY OF FARMERS PAYMENTS AND LOANS

SEC. 385.[385–1] [7 U.S.C. 1385] The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 and this Act, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 348 of this title.

[EXEMPTION FROM LAWS PROHIBITING INTEREST OF MEMBERS OF CONGRESS IN CONTRACTS]

SEC. 386. [7 U.S.C. 1386] The provisions of section 3741 of the Revised Statutes (U.S.C., 1934 edition, title 41, Sec. 22) and sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205) [now 18 U.S.C. 431 and 432] shall not be applicable to loans or payments made under this Act (except under section 383(a)).

PHOTOGRAPHIC REPRODUCTIONS AND MAPS

SEC. 387. [7 U.S.C. 1387] The Secretary may furnish reproductions of information such as geo-referenced data from all sources,[387–1] aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices[387–2] as the Secretary may determine (but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and in-

384–1 Repealed by P.L. 615, 79th Cong., 60 Stat. 866, Aug. 7, 1946.

385–1 The first sentence was amended by sec. 1102 of the Agriculture and Food Act of 1981, P.L. 97–98, 95 Stat. 1263, Dec. 22, 1981, to read as it appears in the text. It had been likewise revised by sec. 405 of the Food and Agriculture Act of 1977, P.L. 95–113, 91 Stat. 927, Sept. 29, 1977, effective only for the 1978 through 1981 crops. Sec. 1017(a) of the Food Security Act of 1985, P.L. 99–198, 99 Stat. 1459, Dec. 23, 1985, added "extra long staple cotton," after "upland cotton".

387–1 Sec. 407(1) of H.R. 3423 of the 106th Congress, as enacted by sec. 1000(a)(3) of div. B of P.L. 106–113 (113 Stat. 1536), amended this section by striking "such" the first place it appears and inserting "information such as geo-referenced data from all sources,".

387–2 Sec. 407(2) of H.R. 3423 of the 106th Congress, as enacted by sec. 1000(a)(3) of div. B of P.L. 106–113 (113 Stat. 1536), amended this section by striking "(not less than estimated cost of furnishing such reproductions)".

formation),[387–3] the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

UTILIZATION OF LOCAL AGENCIES

SEC. 388. [7 U.S.C. 1388] (a) The provisions of section 8(b) and section 11 of the Soil Conservation and Domestic Allotment Act, as amended, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this Act; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended. The local administrative areas designated under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for the administration of programs under that Act, and the local administrative areas designated for the administration of this Act shall be the same.

(b)[388–1](1) The Secretary is authorized and directed, from any funds made available for the purposes of the Acts in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of such Acts. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from the Soil Conservation Act payments, parity payments, or loans, or other payments under such Acts, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out the Acts in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on the date of enactment of the Food Security Act of 1985 shall be increased at the discretion of the Secretary.

(c)[388–2](1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperation in carrying out the Acts in connection with which such Committees are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5, United States Code, for the pay-

[387–3] Sec. 407(3) of H.R. 3423 of the 106th Congress, as enacted by sec. 1000(a)(3) of div. B of P.L. 106–113 (113 Stat. 1536), amended this section by inserting after "determine" the following: "(but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information)".

[388–1] Sec. 1713 of the Food Security Act of 1985, P.L. 99–198, 99 Stat. 1836, Dec. 23, 1985, added "(1)" after the subsec. (b) designation; added para. (2); and added subsec. (c).

[388–2] See footnote 388–1.

ment of expenses and allowances for individuals employed intermittently in the Federal Government service.

PERSONNEL

SEC. 389.[389–1] [7 U.S.C. 1389] The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this Act as he deems may be appropriately exercised by such administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

SEPARABILITY

SEC. 390. [7 U.S.C. 1390] If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances, and the provisions of the Soil Conservation and Domestic Allotment Act, as amended, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this Act should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this Act for the marketing quotas with respect to any commodity should be held invalid, no provision of this Act for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

PART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

APPROPRIATIONS

SEC. 391. [7 U.S.C. 1391] (a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this Act and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 15 of the Soil Conservation and Domestic Allotment Act, as amended.

(b) [Applicable only to fiscal year 1938.]

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed $50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 8 and 12 of the Soil Conservation and Domestic Allotment Act, as amended,

[389–1] The functions of the Agricultural Adjustment Administration were transferred to the Secretary of Agriculture by 1946 Reorganization Plan No. 3 (60 Stat. 1100, 11 F.R. 7877), and delegated by him to the Commodity Stabilization Service (19 F.R. 77). The title of the Commodity Stabilization Service was changed to Agricultural Stabilization and Conservation Service (Reorganization Plan 2 of 1953 (26 F.R. 8404)).

in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 7 to 17 of such Act and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

ADMINISTRATIVE EXPENSES

SEC. 392. [7 U.S.C. 1392] (a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this Act and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of the several Acts, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of the respective Acts.

(b) In the administration of this title and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this title and such Act, unless otherwise provided by appropriation or other law. In the administration of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (49 Stat. 774), as amended, and the Agricultural Marketing Agreement Act of 1937, as amended, and those sections of the Agricultural Adjustment Act (of 1933), as amended, which were reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said Acts, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in

any fiscal year, beginning with the fiscal year ending June 30, 1939, from Soil Conservation Act payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

ALLOTMENT OF APPROPRIATIONS

SEC. 393. [7 U.S.C. 1393] All funds for carrying out the provisions of this Act shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this Act.

APPENDIX

SECTION I—TOBACCO

[IMPROVED TOBACCO FIELD MEASUREMENT]

[SEC. 1112 OF OMNIBUS BUDGET RECONCILIATION ACT OF 1987[1] * * *]

(c) IMPROVED TOBACCO FIELD MEASUREMENT.—It is the sense of Congress that the Secretary of Agriculture should review current compliance procedures for acreage or poundage quotas with respect to cigar and dark-air and fire-cured tobaccos under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine means of improving such procedures. The Secretary shall recommend to Congress changes in existing law that would be necessary to implement any such improvements.

SECTION II—COTTON

[COTTON ACREAGE ALLOTMENTS]

[SEC. 1 OF ACT OF MARCH 29, 1949[3] * * *] That, notwithstanding the provisions of title III of the Agricultural Adjustment Act of 1938, as amended, or of any other law, State, county, and farm acreage allotments and yields for cotton for any year after 1949 shall be computed without regard to yields or to the acreage planted to cotton in 1949.

[1] P.L. 100–203, 101 Stat. 1330–8, Dec. 22, 1987.
[3] Sec. 1 of Act of March 29, 1949 (63 Stat. 17, chapter 38; 7 U.S.C. 1344a).